

1 COAST LAW GROUP, LLP
2 MARCO A. GONZALEZ (SBN 190832)
3 LIVIA BORAK (SBN 259434)
4 1140 South Coast Highway 101
5 Encinitas, CA 92024
6 Ph: (760) 942-8505
7 Fx: (760) 942-8515
8 email: marco@coastlawgroup.com

9 Attorneys for Plaintiff
10 COASTAL ENVIRONMENTAL RIGHTS FOUNDATION

11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 COASTAL ENVIRONMENTAL RIGHTS
14 FOUNDATION,
15 a non-profit corporation,

16 Plaintiff,

17 v.

18 RILEY RECYCLING, Inc. a corporation;
19 PAUL H. SWEENEY, SR, an individual;
20 SUSAN E. SWEENEY, an individual.

21 Defendants.
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Civil Case No.: '15CV0954 AJB DHB

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF AND
CIVIL PENALTIES**

**(Federal Water Pollution Control Act,
33 U.S.C. § 1251 *et seq.*)**

1 Coastal Environmental Rights Foundation, (hereinafter referred to as “CERF” or
2 “Plaintiff”), by and through its counsel, hereby alleges:

3 **I. JURISDICTION AND VENUE**

4 1. This is a civil suit brought under the citizen suit enforcement provisions of
5 the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq. (the “Clean Water
6 Act” or the “CWA”). This Court has subject matter jurisdiction over the parties and this
7 action pursuant to Section 505(a)(1) of the CWA, 33 U.S.C. § 1365(a)(1), and 28 U.S.C.
8 § 1331 (an action for declaratory and injunctive relief arising under the Constitution and
9 laws of the United States).

10 2. On December 11, 2014, CERF issued a 60-day notice letter (“Notice
11 Letter”) to Riley Recycling, Inc., and Paul H. Sweeney, Sr., regarding their violations of
12 the Clean Water Act, and of CERF’s intention to file suit against Defendants. The
13 Notice Letter was sent to the registered agent, Mark R. Riley, for Riley Recycling, Inc,
14 as required by 40 C.F.R. § 135.2(a)(2), as well as the Administrator of the United States
15 Environmental Protection Agency (“EPA”), the Administrator of EPA Region IX, the
16 Executive Director of the State Water Resources Control Board (“State Board”), and the
17 Executive Officer of the Regional Water Quality Control Board, San Diego Region
18 (“Regional Board”) as required by CWA, 33 U.S.C. § 1365(b)(1)(A). A true and correct
19 copy of the Initial Notice Letter is attached hereto as Exhibit A and incorporated herein.

20 3. More than sixty days has passed since the Notice Letter was served on
21 Defendants and the State and Federal agencies. Plaintiff is informed and believes, and
22 thereon alleges, that neither the EPA nor the State of California has commenced or is
23 diligently prosecuting an action to redress the violations alleged in this complaint. (33
24 U.S.C. § 1365(b)(1)(B)). This action is not barred by any prior administrative penalty
25 under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

26 4. Venue is proper in the Southern District of California pursuant to Section
27 505(c)(1) of the CWA, 33 U.S.C. § 1365(c)(1), because the sources of the violations are
28 located within this judicial district.

1 II. INTRODUCTION

2 5. This complaint seeks relief for the Defendants' unlawful discharge of
 3 pollutants into waters of the United States from its operations at 15 28th Street, San
 4 Diego, CA ("Riley Facility" or "Site"). Specifically, Defendants discharge storm water
 5 runoff from the Site into storm drains, San Diego Bay and ultimately the Pacific Ocean
 6 (collectively referred to as the "Receiving Waters"). This complaint also seeks relief for
 7 Defendants' violations of the filing, monitoring, reporting, discharge and management
 8 practice requirements, and other procedural and substantive requirements of California's
 9 General Permit for Discharges Associated with Industrial Activities (*National Pollution*
 10 *Discharge Elimination System* ("NPDES") General Permit No. CAS000001, *State*
 11 *Water Resources Control Board Water Quality Order No. 97-03-DWQ, as amended by*
 12 *Order No. 97-03-DWQ*) ("Industrial Permit"). These are ongoing and continuous
 13 violations of the Clean Water Act and the Industrial Permit.

14 6. With every rainfall event, hundreds of millions of gallons of polluted
 15 rainwater, originating from industrial operations such as the Riley Facility, pours into
 16 San Diego storm drain systems, the San Diego River and ultimately the Pacific Ocean.
 17 This discharge of pollutants in storm water from industrial activities such as the Riley
 18 Facility contributes to the impairment of downstream waters and compromises or
 19 destroys their beneficial uses.

20 III. PARTIES

21 A. Coastal Environmental Rights Foundation

22 7. Plaintiff CERF is a non-profit public benefit corporation organized under
 23 the laws of the State of California.

24 8. CERF's office is located at 1140 South Coast Highway 101, Encinitas
 25 California, 92024.

26 9. CERF was founded by surfers in North San Diego County and active
 27 throughout California's coastal communities. CERF was established to aggressively
 28 advocate, including through litigation, for the protection and enhancement of coastal

1 natural resources and the quality of life for coastal residents. One of CERF's primary
2 areas of advocacy is water quality protection and enhancement.

3 10. CERF has over 1,000 members who live and/or recreate in and around San
4 Bay and the Pacific Ocean.

5 11. Members of CERF use and enjoy the Receiving Waters to fish, sail, boat,
6 kayak, paddle board, surf, swim, hike, view wildlife, and engage in scientific study
7 including monitoring activities, among other activities. Defendants' discharge pollutants
8 from the Sites to the Receiving Waters used by CERF's members. Thus, discharges of
9 pollutants by Defendants impair CERF's members' uses and enjoyment of the
10 Receiving Waters.

11 12. The interests of CERF's members have been, are being, and will continue
12 to be adversely affected by the Defendants' failure to comply with the Clean Water Act
13 and the Industrial Permit. The relief sought herein will redress the harms to Plaintiff
14 caused by Defendants' activities. Continuing commission of the acts and omissions
15 alleged above will irreparably harm Plaintiff's members, for which harm they have no
16 plain, speedy or adequate remedy at law.

17 **B. The Riley Facility Owners and/or Operators**

18 13. CERF is informed and believes that Riley Recycling, Inc. is a private
19 corporation organized under the laws of the State of California, and is located in Chula
20 Vista, California.

21 14. CERF is informed and believes, and thereon alleges that Paul H. Sweeney,
22 Sr. and Susan E. Sweeney are current owners of the property located at 15 28th Street,
23 San Diego, CA and 2812 Commercial Street, San Diego, CA ("Property"). CERF is
24 informed and believes, and thereon alleges, Riley Recycling, Inc. leases a portion of the
25 Property from Defendants Paul H. Sweeney and Susan E. Sweeney. Riley Recycling,
26 Inc., Paul H. Sweeney, Sr. and Susan E. Sweeney are collectively referred to as
27 "Defendants" or "Riley Facility Owners and/or Operators."

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IV. STATUTORY BACKGROUND

A. The Clean Water Act

15. Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant into waters of the United States unless the discharge complies with various enumerated sections of the CWA. Among other things, Section 301(a) prohibits discharges not authorized by, or in violation of, the terms of an NPDES permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

16. Section 402(p) of the CWA establishes a framework for regulating municipal and industrial storm water discharges under the NPDES program. (33 U.S.C. § 1342(p)). States with approved NPDES permit programs are authorized by Section 402(b) to regulate industrial storm water discharges through individual permits issued to dischargers and/or through the issuance of a single, statewide general permit applicable to all industrial storm water dischargers. (33 U.S.C. § 1342).

17. Section 402(b) of the CWA allows each state to administer its own EPA-approved permit for storm water discharges. (33 U.S.C. § 1342(b)). In California, the State Board is charged with regulating pollutants to protect California's water resources.

18. The Industrial Permit is a statewide general NPDES permit issued by the State Board pursuant to Section 402 of the CWA that regulates the discharge of pollutants from industrial sites. (33 U.S.C. § 1342).

19. Section 505(a)(1) of the CWA provides for citizen enforcement actions against any "person" who is alleged to be in violation of an "effluent standard or limitation... or an order issued by the Administrator or a State with respect to such a standard or limitation." (33 U.S.C. § 1365(a)(1)).

20. An action for injunctive relief under the CWA is authorized by 33 U.S.C. § 1365(a).

21. Each separate violation of the Clean Water Act subjects the violator to a penalty of up to \$37,500 per day per violation for all violations occurring after January 12, 2009. (33 U.S.C. § 1319(d); Adjustment of Civil Monetary Penalties for Inflation,

1 40 C.F.R. §19.4).

2 22. Section 505(d) of the Clean Water Act permits prevailing parties to
3 recover costs, including attorneys' and experts' fees. (33 U.S.C. § 1365(d)).

4 **B. California's Industrial Permit**

5 23. The Industrial Permit is an NPDES permit adopted pursuant to Section 402
6 of the CWA, 33 U.S.C. § 1342(b) and 40 C.F.R § 123.25. In order to discharge storm
7 water lawfully in California, industrial dischargers must secure coverage under the
8 Industrial Permit and comply with its terms, or obtain and comply with an individual
9 NPDES permit.

10 24. Discharge Prohibition A(1) of the General Permit prohibits the direct or
11 indirect discharge of materials other than storm water ("non-storm water discharges"),
12 which are not otherwise regulated by an NPDES permit, to the waters of the United
13 States. Discharge Prohibition A(2) of the Industrial Permit prohibits storm water
14 discharges and authorized non-storm water discharges which cause or threaten to cause
15 pollution, contamination, or nuisance.

16 25. Effluent limitation B(3) of the Industrial Permit requires facility operators
17 to reduce or prevent pollutants associated with industrial activity in storm water
18 discharges and authorized non-storm water discharges through the implementation of
19 Best Available Technology Economically Achievable ("BAT") for toxic pollutants and
20 Best Conventional Pollutant Control Technology ("BCT") for conventional pollutants.

21 26. Receiving Water Limitation C(1) of the Industrial Permit prohibits storm
22 water discharges and authorized non-storm water discharges to surface or groundwater
23 that adversely impacts human health or the environment.

24 27. Receiving Water Limitation C(2) of the Industrial Permit prohibits storm
25 water discharges and authorized non-storm water discharges that cause or contribute to
26 an exceedance of an applicable water quality standard in a Statewide Water Quality
27 Control Plan or the applicable Regional Board's Basin Plan.

28 28. Section A(1) and Provision E(2) of the Industrial Permit require

1 dischargers to have developed and implemented a Storm Water Pollution Prevention
2 Plan ("SWPPP") by October 1, 1992, or prior to beginning industrial activities, that
3 meets all the requirements of the Industrial Permit.

4 29. The objective of the SWPPP is to identify and evaluate sources of
5 pollutants associated with industrial activities that may affect the quality of storm water
6 discharges from the Sites, and identify and implement site-specific Best Management
7 Practices ("BMPs") to reduce or prevent pollutants associated with industrial activities
8 in storm water discharges. (Industrial Permit, Section A(2)).

9 30. To ensure its effectiveness, Section A(9) of the Industrial Permit requires
10 the SWPPP to be evaluated on an annual basis, and it must be revised as necessary to
11 ensure compliance with the Permit. (Industrial Permit, Section A(9), (10)).

12 31. Sections A(3) through A(10) of the Industrial Permit set forth the
13 requirements for a SWPPP.

14 32. Section A(3) of the Industrial Permit requires the discharger to create a
15 team to develop the SWPPP, which considers all Federal, State, and local requirements.

16 33. The SWPPP must include a site map showing the facility boundaries,
17 storm water drainage areas with flow patterns, nearby water bodies, the location of the
18 storm water collection, conveyance and discharge system, structural control measures,
19 areas of actual and potential pollutant contact, and areas of industrial activity. (Industrial
20 Permit, Section A(4)).

21 34. The SWPPP must also include a list of significant materials handled and
22 stored at the site (Industrial Permit, Section A(5)); a description of potential pollutant
23 sources including industrial processes, material handling and storage areas, dust and
24 particulate generating activities, and a description of significant spills and leaks, a list of
25 all non-storm water discharges and their sources and a description of locations where
26 soil erosion may occur (Industrial Permit, Section A(6)); and an assessment of potential
27 pollutant sources at the facility and a description of the BMPs to be implemented at the
28 facility that will reduce or prevent pollutants in storm water discharges and authorized

1 non-storm water discharges, including structural BMPs where non-structural BMPs are
2 not effective (Industrial Permit, Sections A(7) and (8)).

3 35. Provision E(3) and Section B(1) of the Industrial Permit require
4 dischargers to prepare and implement a monitoring and reporting program ("M&RP")
5 no later than October 1, 1992 or prior to commencing industrial activities.

6 36. The objective of the M&RP is to ensure that storm water discharges are in
7 compliance with the Industrial Permit's Discharge Prohibitions, Effluent Limitations,
8 and Receiving Water Limitations. (Industrial Permit, Section B(2)).

9 37. The M&RP must ensure that BMPs utilized at the facility are reducing or
10 preventing pollutants in storm water discharges, and are evaluated whenever
11 appropriate. (Industrial Permit, Section B(2)(a)).

12 38. Sections B(3) through B(16) of the Industrial Permit set forth the M&RP
13 requirements.

14 39. Section B(3) of the Industrial Permit requires dischargers to conduct visual
15 observations for the presence of unauthorized non-storm water discharges on a quarterly
16 basis, to document the source of any discharge, and to report the presence of any
17 discolorations, stains, odors, and floating materials in the discharge.

18 40. Section B(4) of the Industrial Permit requires dischargers to visually
19 observe storm water discharges at all discharge locations from one storm event per
20 month during the wet season (October 1 - May 30) and to document the presence of any
21 floating and suspended materials, oil and grease, discolorations, turbidity, or odor in the
22 discharge, and the source of any pollutants.

23 41. Sections B(3)(d) and B(4)(c) of the Industrial Permit require dischargers to
24 maintain records of observations, observation dates, locations observed, and responses
25 taken to eliminate unauthorized non-storm water discharges and to reduce or prevent
26 pollutants from contacting non-storm water and storm water discharges.

27 42. Section B(5) of the Industrial Permit requires dischargers to collect a
28 sample from all discharge points during the first storm event of the wet season and

1 during at least one other storm event of the wet season, for a total of two samples per
2 wet season.

3 43. Section B(5)(c) of the Industrial Permit requires dischargers to analyze
4 each sample for pH, specific conductance, total suspended solids, total organic content,
5 and for toxic chemicals and other pollutants likely to be present in significant quantities
6 in the storm water discharged from the Sites.

7 44. Dischargers must submit "Annual Reports" to the Regional Board by July
8 1 of each year. (Industrial Permit, Section B(14)).

9 V. STATEMENT OF FACTS

10 A. Riley Facility

11 45. CERF is informed, believes, and thereon alleges the Riley Facility is in the
12 business of receiving, sorting, storing, and processing scrap metals.

13 46. CERF is informed, believes, and thereon alleges the Riley Facility
14 processes approximately 30 tons of ferrous metal per day. The facility is comprised of
15 two sections. The eastern portion of the facility is used for shipping and receiving of
16 materials, brought in by trucks. The materials are weighed, deposited on the concrete
17 surface of the west side of the Riley Facility, and then reduced in size. The materials is
18 then loaded into a truck or cargo box for shipment offsite.

19 47. CERF is informed, believes, and thereon alleges that storm water is
20 conveyed from the north of the Riley Facility toward Commercial Street.

21 48. CERF is informed, believes, and thereon alleges the Riley Facility is open
22 to the public to receive and recycle scrap metal.

23 49. The Riley Facility discharges into storm drains that discharge into San
24 Diego Bay and ultimately the Pacific Ocean.

25 50. The EPA promulgated regulations for the Section 402 NPDES permit
26 program defining waters of the United States. (See 40 C.F.R. § 122.2). The EPA
27 interprets waters of the United States to include not only traditionally navigable waters
28 but also other waters, including waters tributary to navigable waters, wetlands adjacent

1 to navigable waters, and other waters including intermittent streams that could affect
2 interstate commerce. The CWA requires any person who discharges or proposes to
3 discharge pollutants into waters of the United States to submit an NPDES permit
4 application. (40 C.F.R. § 122.21).

5 51. The Clean Water Act confers jurisdiction over non-navigable waters that
6 are tributary to traditionally navigable waters where the non-navigable water at issue
7 has a significant nexus to the navigable water. (*See Rapanos v. United States*, 547 U.S.
8 715 (2006)). A significant nexus is established if the “[receiving waters], either alone or
9 in combination with similarly situated lands in the region, significantly affect the
10 chemical, physical, and biological integrity of other covered waters.” (*Id.* at 780).

11 52. A significant nexus is also established if waters that are tributary to
12 navigable waters have flood control properties, including functions such as the
13 reduction of flow, pollutant trapping, and nutrient recycling. (*Id.* at 783).

14 53. Information available to CERF indicates that each of the surface waters
15 into which the Riley Facility discharges polluted storm water are tributaries to
16 traditional navigable waters, such as San Diego Bay and the Pacific Ocean.

17 54. CERF is informed and believes, and thereon alleges the Riley Facility’s
18 polluted discharges cause and/or contribute to the impairment of water quality in San
19 Diego Bay. Elevated levels of metals have resulted in the inability of the San Diego Bay
20 to support its beneficial uses.

21 55. Water Quality Standards are pollutant concentration levels determined by
22 the State Board and the EPA to be protective of the beneficial uses of the receiving
23 waters. Discharges above Water Quality Standards contribute to the impairment of the
24 receiving waters’ beneficial uses.

25 56. The applicable Water Quality Standards include, but are not limited to,
26 those set out by the State of California in the Criteria for Priority Toxic Pollutants, 40
27 C.F.R. § 131.38 , (“California Toxics Rule” or “CTR”) and in the Basin Plan. The CTR
28 limits are, in part, as follows: lead – .065 milligrams per liter (mg/L); copper – .013

1 mg/L; zinc – .12 mg/L. These numeric criteria are set to protect human health and the
 2 environment in the State of California. The CTR limits represented are the maximum
 3 concentration levels permissible to achieve health and environmental protection goals.

4 57. EPA Benchmarks are the pollutant concentrations above which EPA has
 5 determined are indicative of a facility not successfully developing or implementing
 6 BMPs that meet BAT for toxic pollutants and BCT for conventional pollutants. (See
 7 Multi-Sector General Permits for Stormwater Discharges Associated with Industrial
 8 Activity (MSGP), 2008, §§6.2, 8.N). The benchmark values provide an appropriate
 9 level to determine whether a facility's storm water pollution prevention measures are
 10 successfully implemented. (MSGP Fact Sheet, p. 68). Failure to conduct and document
 11 corrective action and revision of control measures in response to benchmark
 12 exceedances constitutes a permit violation. (*Id.*).

13 58. EPA has established the following benchmark values for Sector N, Scrap
 14 Recycling and Waste Recycling Facilities: total suspended solids – 100 mg/L; iron – 1
 15 mg/L; aluminum – 0.75 mg/L; zinc¹ – 0.04-.26 mg/L; copper – 0.0038-.0332 mg/L; total
 16 suspended solids (TSS) – 100 mg/L; lead – 0.014-.262 mg/L. (MSGP, §8.N.6, Table
 17 I.N-1).

18 59. The Regional Board's Basin Plan establishes water quality objectives,
 19 implementation plans for point and nonpoint source discharges, and prohibitions, and
 20 furthers statewide plans and policies intended to preserve and enhance the beneficial
 21 uses of all waters in the San Diego region. (*See* Basin Plan at 1-1). The Basin Plan
 22 identifies several beneficial uses for regional waters, including for San Diego Bay.

23 **B. Past and Present Industrial Activity at the Riley Facility**

24 60. CERF is informed, believes, and thereon alleges that in its Notice of Intent
 25 to Obtain Coverage under Industrial Permit submitted to the Regional Board, the Riley
 26 Facility Owners and/or Operators list their operations as Standard Industrial

27
 28 ¹ The zinc, lead, and copper benchmarks are dependent on water hardness.

1 Classification (“SIC”) code 5093 for facilities primarily engaged in assembling,
2 breaking up, sorting, and wholesale distribution of scrap and waste materials (“Scrap
3 Metal Operation”).

4 61. CERF is informed, believes, and thereon alleges that the Riley Facility
5 Owners and/or Operators engage in the following industrial operations: metal scrap
6 recycling, sorting, processing, crushing and baling of ferrous and non-ferrous metals,
7 storage of scrap metals, and shipping and receiving of containers. CERF is informed,
8 believes, and thereon alleges that the Riley Facility Owners and/or Operators also store,
9 handle, and/or transport hazardous waste such as waste oil and gasoline.

10 62. The potential pollutant sources associated with the industrial activities at
11 the Riley Facility include, but are not limited to: the scrap metal outdoor storage areas;
12 parking areas; shipping and receiving areas; loading and unloading areas; maintenance
13 areas; the office building; the piles of turnings and cuttings; and the on-site material
14 handling equipment.

15 63. CERF is informed, believes, and thereon alleges that pollutants present in
16 storm water discharged from the Riley Facility therefore include but are not limited to:
17 toxic metals such as copper, iron, zinc, lead, and aluminum; petroleum products
18 including oil, fuel, grease, transmission fluids, brake fluids, hydraulic oil and diesel fuel;
19 chemical admixtures, battery fluids, refrigerator and other appliance fluids, acids and
20 solvents; total suspended solids and pH-affecting substances; and fugitive and other
21 dust, dirt and debris.

22 64. Investigators for CERF have inspected the Riley Facility. These
23 investigators have photographed ongoing and continuous violations of the Industrial
24 Permit and Clean Water Act at the Riley Facility.

25 65. Based upon CERF’s investigation, CERF is informed and believes and
26 thereon alleges that the Riley Facility Owners and/or Operators store scrap metal and
27 other materials in piles in the scrap yard with no covering or containment. These piles
28

1 consist of, but are not limited to, scrap metal items such as scrap auto parts, aluminum,
2 crushed vehicles, and appliances.

3 66. CERF is informed and believes and thereon alleges that there are patches
4 of oil-contaminated dirt, metal shavings and particulates, and other pollutants at the
5 Riley Facility.

6 67. Based upon its investigations, CERF is informed and believes and thereon
7 alleges that there are also metallic drums, and other containers stored in the operations
8 yard that are uncovered and/or uncontained.

9 68. CERF is informed and believes and thereon alleges that the driveways at
10 the Riley Facility convey storm water pollution off the site and into area storm drains.

11 69. CERF is informed and believes that the Riley Facility driveway lacks
12 effective BMPs to control the flow of storm water from the Facility onto Commercial
13 Street. As a result, oil and grease, metal particles, and other pollutants have been and
14 continue to be tracked out of the Riley Facility operations area onto Commercial Street.
15 As noted above, large amounts of scrap materials are piled onsite, outside of cover, near
16 and/or directly adjacent to the driveways leading onto Commercial Street. Further, dirt,
17 oil, and grease, and other pollutants cover the floor of the operations area near or
18 directly adjacent to the driveway leading to Commercial Street.

19 70. As a result, CERF is informed and believes and thereon alleges that during
20 rain events at the Riley Facility, storm water carries pollutants from the scrap metal
21 piles, scrap metal stacked in bins and dumpsters, floor contaminants, equipment,
22 uncontained metal drums, and other sources directly onto Commercial Street. After
23 periods of rainfall, storm water from the Riley Facility discharges directly to storm
24 drains located on Commercial Street.

25 71. CERF is informed and believes and thereon alleges that the Riley Facility
26 pollution control measures are ineffective in controlling the exposure of pollutant
27 sources to storm water at the Riley Facility. The Riley Facility Owners and/or Operators
28 have virtually no storm water controls and BMPs in place to prevent storm water and

1 non-storm water from contacting the pollutant sources at the storage areas, loading area
2 and driveways at the Riley Facility. BMPs in place to control discharges to Commercial
3 Street are ineffective and, on information and belief, have likely become a source of
4 pollutants.

5 72. Based upon its investigations, CERF is informed and believes and thereon
6 alleges that the Riley Facility Owners and/or Operators have not conducted the required
7 storm water sampling at the Riley Facility for the 2009-2010, 2010-2011, 2011-2012,
8 2012-2013, and 2013-2014 reporting years by failing to sample the required two storm
9 events. CERF is informed and believes and thereon alleges that the Riley Facility has
10 also failed to monitor pH and TSS as required during the sampling event on February
11 26, 2011.

12 73. CERF is informed and believes and thereon alleges that there were 15
13 significant rain events during the 2009 wet season, 32 significant rain events during the
14 2010 wet season, 17 significant rain events during the 2011 wet season, 22 significant
15 rain events during the 2012 wet season, 11 significant rain events during the 2013 wet
16 season, and 8 significant rain events during the 2014 wet season during which the Riley
17 Facility Owners and/or operators could have sampled the storm water. A significant rain
18 event is defined by the EPA as a rainfall event generating 0.1 inches or more.

19 **C. The Riley Facility and its Associated Discharge of Pollutants**

20 74. CERF is informed, believes, and thereon alleges that with every significant
21 rain event, the Riley Facility discharges polluted storm water from the industrial
22 activities at the facility via the City of San Diego's storm drain system and into the
23 Receiving Waters.

24 75. CERF is informed, believes, and thereon alleges that the Receiving Waters
25 into which the Riley Facility discharges polluted storm water are waters of the United
26 States and therefore the Industrial Permit properly regulates discharges to those waters.

27 76. Because discharges from the Riley Facility contain metals and, the Riley
28 Facility's polluted discharges cause and/or contribute to the impairment of water quality

1 in the Receiving Waters.

2 77. CERF is informed, believes, and thereon alleges that the storm water
3 discharged from the Riley Facility has exceeded the Benchmark value for copper
4 established by the EPA as well as the CTR Water Quality Standards applicable to
5 copper in California. For example, Defendants' annual report monitoring data indicates
6 levels of copper at .082 mg/L which is more than six times the copper CTR limit of
7 0.013 mg/L. This reading is also more than five times the EPA Benchmark of 0.0156
8 mg/L.² (MSGP, §8.N.6, Table 8.N-1).

9 78. CERF is informed, believes, and thereon alleges that the storm water
10 discharged from the Riley Facility has exceeded the CTR Water Quality Standards
11 applicable to lead in California. For example, Defendants' annual report monitoring data
12 indicates levels of lead at .143 mg/L which is more than twice the CTR limit of .065
13 mg/L. This reading is also more than 95 times the EPA Benchmark value for lead of
14 .095 mg/L.³ (MSGP, §8.N.6, Table 8.N-1).

15 79. CERF is informed, believes, and thereon alleges that the storm water
16 discharged from the Riley Facility has exceeded the CTR Water Quality Standards
17 applicable to zinc in California. For example, Defendants' annual report monitoring data
18 indicates levels of zinc at .578 mg/L which is almost five times the CTR limit of .12
19 mg/L. This reading is also almost 4.5 times the EPA Benchmark value for zinc of .13
20 mg/L.⁴ (MSGP, §8.N.6, Table 8.N-1).

21 80. CERF is informed, believes, and thereon alleges that the storm water
22 discharged from the Riley Facility has exceeded the EPA Benchmark value for
23 aluminum. For example, Defendants' annual report monitoring data indicates levels of
24

25
26 ² This benchmark value is hardness-dependent. Assuming the 100-125 mg/L water hardness range applies, the benchmark is .0156 mg/L.

27 ³ This benchmark value is hardness-dependent. Assuming the 100-125 mg/L water hardness range applies, the benchmark is .095 mg/L.

28 ⁴ This benchmark value is hardness-dependent. Assuming the 100-125 mg/L water hardness range applies, the benchmark is .13 mg/L.

1 aluminum at 6.73 mg/L which is almost nine times the EPA Benchmark value for
2 aluminum of .75 mg/L. (MSGP, §8.N.6, Table 8.N-1).

3 81. CERF is informed, believes, and thereon alleges that the storm water
4 discharged from the Riley Facility has exceeded the EPA Benchmark value for iron. For
5 example, Defendants' annual report monitoring data indicates levels of iron at 13.1
6 mg/L which is 13 times the EPA Benchmark value for iron of 1.0 mg/L. (MSGP,
7 §8.N.6, Table 8.N-1).

8 82. CERF is informed, believes, and thereon alleges that during every
9 significant rain event that has occurred at the Riley Facility since December 11, 2009
10 through the present, Defendants have discharged and continue to discharge storm water
11 from the Riley Facility that contains pollutants at levels in violation of the prohibitions
12 and limitations set forth in the Industrial Permit and other applicable Water Quality
13 Standards.

14 83. CERF is informed, believes, and thereon alleges, from visual observations,
15 sample results, and investigations available to CERF, the Riley Facility Owners and/or
16 Operators have failed and continue to fail to develop and/or implement adequate BMPs
17 to prevent the discharge of polluted storm water from the Riley Facility. The inadequacy
18 of the BMPs at the Riley Facility is a result of the Riley Facility Owners and/or
19 Operators' failure to develop and implement an adequate SWPPP and companion
20 M&RP for this Site. Therefore, storm water discharges from the Riley Facility contain
21 pollutant concentration levels that are above both EPA Benchmarks and applicable
22 Water Quality Standards.

23 84. CERF is informed, believes, and thereon alleges that since at least
24 December 11, 2009 through the present, Defendants have failed to develop and
25 implement BMPs that meet the standards of BAT/BCT at the Riley Facility in violation
26 of Effluent Limitation B(3) of the Industrial Permit. Each day that Defendants have
27 failed and continue to fail to implement adequate BMPs to achieve BAT/BCT
28 constitutes a separate violation of the Industrial Permit and the CWA.

1 85. Based on its investigation of the Riley Facility, CERF is informed and
2 believes that Defendants have failed to develop and implement an adequate SWPPP
3 since at least December 11, 2009 through the present. Each day that Defendants have
4 failed and continue to fail to implement an adequate SWPPP constitutes a separate
5 violation of the Industrial Permit and the CWA.

6 86. Based on its investigation of the Riley Facility, CERF is informed and
7 believes that Defendants have failed to develop and implement an adequate M&RP
8 since at least December 11, 2009 through the present. Each day that Defendants have
9 failed and continue to fail to implement an adequate M&RP constitutes a separate
10 violation of the Industrial Permit and the CWA.

11 87. CERF is informed and believes that Defendants have not successfully
12 sampled and reported during the 2009-2010, 2010-2011, 2011-2012, 2012-2013 and
13 2013-2014 wet seasons, despite there being numerous rain events sufficient to generate
14 runoff occurring during the business hours at the Riley Facility. Accordingly, the Riley
15 Facility Owners and/or Operators have violated the Industrial Permit and the CWA for
16 failing to sample and report as required, or for falsely reporting that no discharges
17 occurred that they could have sampled.

18 88. CERF is informed and believes that Defendants have failed to submit
19 written reports to the Regional Board identifying additional BMPs necessary to achieve
20 BAT/BCT at the Riley Facility since at least December 11, 2009 in violation of
21 Receiving Water Limitations C(3) and C(4). Each day that Defendants have operated
22 the Riley Facility without meeting this reporting requirement of the Industrial Permit
23 constitutes a separate violation of the Industrial Permit and the CWA.

24 **D. Riley Facility Owners and/or Operators Monitoring Program**

25 89. CERF is informed and believes that the Riley Facility is required to
26 sample at least two storm events every rainy season in accordance with the sampling
27 and analysis procedures set forth at Section B(5). These procedures require that a
28 sample be taken from all discharge locations at the Riley Facility and that at least two

1 samples are taken during the wet season: (1) one in the first storm event of a particular
2 wet season; and (2) at least one other storm event in the wet season. (Industrial Permit,
3 Sections B(5) and B(7)).

4 90. CERF is informed and believes that despite the extremely high levels of
5 pollutants reported in the samples that were taken at the Riley Facility, the Riley Facility
6 Owners and/or Operators have not sampled as required.

7 91. CERF is informed and believes, and thereon alleges that efforts were not
8 made to take all required samples at all the required locations at the Riley Facility in
9 2009-2010, 2010-2011, 2011-2012, 2012-2013 and 2013-2014 sampling years.

10 92. CERF is informed and believes, and thereon alleges that, as a result of
11 Defendants' failure to evaluate the effectiveness of their existing BMPs, their failure to
12 implement BAT and BCT at the Riley Facility, their failure to fully monitor the quality
13 of storm water discharges from the Site, and their failure to maintain an adequate
14 SWPPP and monitoring program for the Facility, storm water containing pollutants
15 harmful to fish, plant and bird life, and human health is being discharged during every
16 rain event from the Facility directly to storm channels or drains that flow into the
17 Receiving Waters.

18 93. Information available to Plaintiff indicates that Defendants have not
19 submitted any reports pursuant to Receiving Water Limitation C(4)(a) within 60-days of
20 becoming aware of levels in their storm water exceeding the EPA Benchmark values or
21 applicable Water Quality Standards. Information available to Plaintiff indicates that
22 Defendants have not filed any reports describing the Riley Facility's noncompliance
23 with the Industrial Permit pursuant to Section C(11)(d) of the Industrial Permit.

24 94. Information available to Plaintiff indicates that Defendants have not
25 fulfilled the requirements set forth in the Industrial Permit for discharges from the Riley
26 Facility due to its continued discharge of contaminated storm water. Information
27 available to Plaintiff indicates the continued existence of unlawful storm water and non-
28 storm water discharges at the Riley Facility.

VI. CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

Discharges of Contaminated Storm Water in Violation of the Industrial Permit's Discharge Prohibitions and Receiving Water Limitations and the Clean Water Act (Violations of 33 U.S.C. §§ 1311(a), 1342)

95. Plaintiff incorporates the preceding paragraphs as if fully set forth herein.

96. Plaintiff is informed and believes, and thereon alleges, that as a result of the operations at the Riley Facility, during every significant rain event, storm water containing pollutants harmful to fish, plant, bird life, and human health is discharged from the Riley Facility to the Receiving Waters.

97. Plaintiff is informed and believes, and thereon alleges, that the Defendants' discharges of contaminated storm water have caused and continue to cause pollution, contamination, and/or nuisance to the waters of the United States in violation of Discharge Prohibition A(2) of the Industrial Permit.

98. Plaintiff is informed and believes, and thereon alleges, that these discharges of contaminated storm water have, and continue to, adversely affect human health and the environment in violation of Receiving Water Limitation C(1) of the Industrial Permit.

99. Plaintiff is informed and believes, and thereon alleges, that these discharges of contaminated storm water have caused or contributed to and continue to cause or contribute to an exceedance of Water Quality Standards in violation of Receiving Water Limitation C(2) of the Industrial Permit.

100. Plaintiff is informed and believes, and thereon alleges, that from at least December 11, 2009 through the present, Defendants have discharged, and continue to discharge, contaminated storm water from the Riley Facility to Receiving Waters in violation of the prohibitions of the Industrial Permit. Thus, the Riley Facility Owners and/or Operators are liable for civil penalties for five violations of the Industrial Permit and the CWA.

101. Plaintiff is informed and believes, and thereon alleges, that Defendants' violations of the Industrial Permit and the CWA are ongoing.

102. Defendants will continue to be in violation of the Industrial Permit requirements each day the Riley Facility discharges contaminated storm water in violation of Industrial Permit prohibitions.

103. Every day that Defendants have discharged and/or continue to discharge polluted storm water from the Riley Facility in violation of the Industrial Permit is a separate and distinct violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

104. By committing the acts and omissions alleged above, Defendants are subject to an assessment of civil penalties for each and every violation of the CWA occurring from December 11, 2009, to the present pursuant to Sections 309(d) and 505 of the CWA, 33 U.S.C. §§ 1319(d) and 1365, and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. §12.4.

105. An action for injunctive relief under the CWA is authorized by 33 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above would irreparably harm Plaintiff and the citizens of the State of California, for which harm they have no plain, speedy, or adequate remedy at law.

Wherefore, Plaintiff prays judgment against the Defendants as set forth hereafter.

SECOND CAUSE OF ACTION

Failure to Develop and/or Implement BMPs that Achieve Compliance with Best Available Technology Economically Achievable and Best Conventional Pollutant Control Technology In Violation of the Industrial Permit and the Clean Water Act (Violations of 33 U.S.C. §§1311, 1342)

106. Plaintiff incorporates the preceding paragraphs as if fully set forth herein.

107. Plaintiff is informed and believes, and thereon alleges that Defendants have failed to develop and/or implement BMPs that achieve compliance with BAT/BCT requirements of the Industrial Permit and the CWA.

108. Sampling of the Riley Facility's storm water discharges as well as CERCLA's observations and photographs of the Riley Facility demonstrate that the Riley Facility

1 Owners and/or Operators have not developed and/or implemented BMPs that meet the
2 standards of BAT/BCT. Thus, the Riley Facility Owners and/or Operators are in
3 violation of Effluent Limitation (B)(3) of the Industrial Permit.

4 109. Plaintiff is informed and believes and thereon alleges that Defendants have
5 been in daily and continuous violation of the BAT/BCT requirements of the Industrial
6 Permit and the CWA every day since at least December 11, 2009.

7 110. Plaintiff is informed and believes and thereon alleges that Defendants'
8 violations of the Industrial Permit Effluent Limitations and the CWA are ongoing.

9 111. Defendants will continue to be in violation every day the Riley Facility
10 operates without adequately developing and/or implementing BMPs that achieve
11 BAT/BCT to prevent or reduce pollutants associated with industrial activity in storm
12 water discharges at the Riley Facility.

13 112. Every day that Defendants operate the Riley Facility without adequately
14 developing and/or implementing BMPs that achieve BAT/BCT in violation of the
15 Industrial Permit is a separate and distinct violation of Section 301(a) of the CWA, 33
16 U.S.C. § 1311(a).

17 113. By committing the acts and omissions alleged above, Defendants are
18 subject to an assessment of civil penalties for each and every violation of the CWA
19 occurring from December 11, 2009 to the present pursuant to Sections 309(d) and 505
20 of the CWA, 33 U.S.C. §§ 1319(d) and 1365, and the Adjustment of Civil Monetary
21 Penalties for Inflation, 40 C.F.R. §12.4.

22 114. An action for injunctive relief under the CWA is authorized by 33 U.S.C.
23 § 1365(a). Continuing commission of the acts and omissions alleged above would
24 irreparably harm Plaintiff and the citizens of the State of California, for which harm
25 they have no plain, speedy, or adequate remedy at law.

26 Wherefore, Plaintiff prays judgment against the Defendants as set forth hereafter.

27 /././

28 /././

THIRD CAUSE OF ACTION

**Failure to Develop and/or Implement an Adequate
Storm Water Pollution Prevention Plan
in Violation of the Industrial Permit and Clean Water Act
(Violations of 33 U.S.C. §§ 1311, 1342)**

115. Plaintiff incorporates the preceding paragraphs as if fully set forth herein.

116. Plaintiff is informed and believes, and thereon alleges that Defendants have failed to develop and/or implement an adequate SWPPP for the Riley Facility that meets the requirements set out in Section A and Provision E of the Industrial Permit.

117. Defendants have been in violation of the SWPPP requirements every day since at least December 11, 2009.

118. Defendants' violations of the Industrial Permit and the CWA are ongoing.

119. Defendants will continue to be in violation of the SWPPP requirements every day the Riley Facility operates with an inadequately developed and/or implemented SWPPP for the Riley Facility.

120. Each day that Defendants operate the Riley Facility without developing and/or implementing an adequate SWPPP is a separate and distinct violation of Section 301(a) of the CWA 33 U.S.C. §1311(a).

121. By committing the acts and omissions alleged above, Defendants are subject to an assessment of civil penalties for each and every violation of the CWA occurring from June 27, 2009 to the present pursuant to Sections 309(d) and 505 of the CWA, 33 U.S.C. §§ 1319(d) and 1365, and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. §12.4.

122. An action for injunctive relief under the CWA is authorized by 33 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above would irreparably harm Plaintiff and the citizens of the State of California, for which harm they have no plain, speedy, or adequate remedy at law.

Wherefore, Plaintiff prays judgment against the Defendants as set forth hereafter.

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FOURTH CAUSE OF ACTION
Failure to Develop and/or Implement an
Adequate Monitoring and Reporting Program
In Violation of the Industrial Permit and the Clean Water Act
(Violations of 33 U.S.C. §§ 1311, 1342)

123. Plaintiff incorporates the preceding paragraphs as if fully set forth herein.

124. Plaintiff is informed and believes, and thereon alleges that Defendants have failed to develop and/or implement an adequate M&RP for the Riley Facility as required by Section B and Provision E(3) of the Industrial Permit.

125. Plaintiff is informed and believes, and thereon alleges, that Defendants conditions at the Riley Facility, as determined via sampling of storm water discharges from the Riley Facility, and the annual reports submitted by the Riley Facility Owners and/or Operators all demonstrate that the Riley Facility has not developed and/or implemented an adequate M&RP that meets the requirements of the Industrial Permit in violation of Section B of the Industrial Permit.

126. Plaintiff is informed and believes, and thereon alleges that Defendants have failed and continue to fail to collect samples from all discharge points during sampled storm events in violation of Section B(5) of the Industrial Permit.

127. Plaintiff is informed and believes, and thereon alleges that Defendants have failed and continue to fail to identify inadequacies in their SWPPP and their BMPs in violation of Section B(2) of the Industrial Permit.

128. Defendants' violations of the Industrial Permit and the CWA are ongoing.

129. Defendants will continue to be in violation of the Industrial Permit and the CWA each day the Riley Facility operates with an inadequately developed and/or implemented M&RP.

130. Each day Defendants operate the Riley Facility without developing and/or implementing an adequate M&RP for the Riley Facility is a separate and distinct violation of Section 301(a) of the CWA, 33 U.S.C. §1311(a).

///

131. By committing the acts and omissions alleged above, Defendants are subject to an assessment of civil penalties for each and every violation of the CWA occurring from December 11, 2009 to the present pursuant to Sections 309(d) and 505 of the CWA, 33 U.S.C. §§ 1319(d) and 1365, and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. §12.4.

132. An action for injunctive relief under the CWA is authorized by 33 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above would irreparably harm Plaintiff and the citizens of the State of California, for which harm they have no plain, speedy, or adequate remedy at law.

Wherefore, Plaintiff prays judgment against the Defendants as set forth hereafter.

FIFTH CAUSE OF ACTION
Failure to Conduct Required Rain Event Sampling in
Violation of the Industrial Permit

133. Plaintiff incorporates the preceding paragraphs as if fully set forth herein.

134. Plaintiff is informed and believes, and thereon alleges, that the Defendants are in violation of Industrial Permit Section B(7) and B(5) by failing to collect at least two samples of storm water runoff, including one set of samples during the first storm event of the wet season.

135. Plaintiff is informed and believes, and thereon alleges, that Defendants failed to collect any samples during the 2011-2012, 2012-2013, 2013-2014 wet seasons, and failed to collect two samples during the 2010-2011 wet season.

136. Information available to CERF indicates that there were numerous qualifying rain events during the 2010, 2011, 2012, 2013 and 2014 wet seasons.

137. Defendants have been in violation of the Industrial Permit and the CWA for each day the Riley Facility operates without sampling as required by the Industrial Permit.

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1 138. By committing the acts and omissions alleged above, Defendants are
 2 subject to an assessment of civil penalties for each and every violation of the CWA
 3 occurring from December 11, 2009 to the presents, pursuant to Sections 309(d) and 505
 4 of the CWA, 33 U.S.C. §§1319(d) and 1365, and the Adjustment of Civil Monetary
 5 Penalties for Inflation, 40 C.F.R. §12.4.

6 139. An action for injunctive relief under the CWA is authorized by 33 U.S.C.
 7 §1365(a). Continuing commission of the omissions alleged above would irreparably
 8 harm the Plaintiff and the citizens of the State of California, for which harm they have
 9 no plain, speedy, or adequate remedy at law.

10 Wherefore, Plaintiff prays judgment against the Defendants as set forth hereafter.

11
 12 **SIXTH CAUSE OF ACTION**
 13 **Failure to Complete and/or Submit Reports in**
 14 **Violation of the Industrial Permit**

15 140. Plaintiff incorporates the preceding paragraphs as if fully set forth herein.

16 141. Plaintiff is informed and believes, and thereon alleges, that Defendants
 17 have failed to complete and/or submit annual reports to the Regional Board in violation
 18 of Section B(14) of the Industrial Permit.

19 142. Plaintiff is informed and believes, and thereon alleges, that Defendants'
 20 annual reports did not meet the monitoring and reporting requirements of the Industrial
 21 Permit in violation of Section B(13) and B(14) of the Industrial Permit.

22 143. Plaintiff is informed and believes, and thereon alleges, that the
 23 Defendants' annual reports were inaccurate and/or did not include a complete Annual
 24 Comprehensive Site Evaluation in violation of Section A(9) of the Industrial Permit.

25 144. Plaintiff is informed and believes, and thereon alleges, that Defendants'
 26 annual reports were inaccurate and stated that the SWPPP's BMPs address existing
 27 potential pollutant sources when they did not, in violation of the Industrial Permit
 28 Section B.

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1 145. Plaintiff is informed and believes, and thereon alleges, that Defendants'
2 annual reports were false and stated that the SWPPP was up to date when it was not, in
3 violation of Section B of the Industrial Permit.

4 146. Plaintiff is informed and believes, and thereon alleges, that Defendants
5 failed to submit a written report identifying what additional BMPs will be implemented
6 to achieve Water Quality Standards even though the Defendants discharge exceeded
7 receiving Water Quality Standards, in violation of Receiving Water Limitations C(3)
8 and C(4) of the Industrial Permit.

9 147. Plaintiff is informed and believes, and thereon alleges, that Defendants'
10 discharges of contaminated storm water are causing or contributing to exceedances of
11 applicable Water Quality Standards contained in a Statewide Water Quality Control
12 Plan, and/or the discharge prohibitions set forth in the Chapter 3 of the Basin Plan, in
13 violation of Receiving Water Limitation B(2) of the Industrial Permit.

14 148. Defendants have been in violation of the Industrial Permit prohibitions
15 each day the Riley Facility operates without reporting as required by the Industrial
16 Permit.

17 149. Defendants' violations of the Industrial Permit and the CWA are ongoing.

18 150. Every day the Defendants operate the Riley Facility without reporting as
19 required by the Industrial Permit is a separate and distinct violation of the Industrial
20 Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a).

21 151. Defendants have been in daily and continuous violation of the Industrial
22 Permit's reporting requirements every day since at least December 11, 2009.

23 152. By committing the acts and omissions alleged above, Defendants are
24 subject to an assessment of civil penalties for each and every violation of the CWA
25 occurring from December 11, 2009 to the present pursuant to Sections 309(d) and 505
26 of the CWA, 33 U.S.C. §§ 1319(d) and 1365, and the Adjustment of Civil Monetary
27 Penalties for Inflation, 40 C.F.R. §12.4.

28 /././

153. An action for injunctive relief under the CWA is authorized by 33 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above would irreparably harm Plaintiff and the citizens of the State of California, for which harm they have no plain, speedy, or adequate remedy at law.

Wherefore, Plaintiff prays judgment against the Defendants as set forth hereafter.

VII. RELIEF REQUESTED

154. Wherefore, Plaintiff respectfully requests that this Court grant the following relief:

a. A Court order declaring Defendants to have violated and to be in violation of Section 301(a) of the CWA 33 U.S.C. § 1311(a) for their unlawful discharges of pollutants from the Riley Facility in violation of the substantive and procedural requirements of the Industrial Permit;

b. A Court order enjoining the Defendants from violating the substantive and procedural requirements of the Industrial Permit;

c. A Court order assessing civil monetary penalties of \$37,500 per day per violation for each violation of the CWA at the Riley Facility occurring since December 11, 2009, as permitted by 33 U.S.C. § 1319(d) and Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4;

d. A Court order requiring Defendants to take appropriate actions to restore the quality of waters impaired by their activities;

e. A Court order awarding CERF its reasonable costs of suit, including attorney, witness, expert, and consultant fees, as permitted by Section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d);

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1 f. Any other relief as this Court may deem appropriate.

2
3 Dated: April 29, 2015

Respectfully submitted,

4
5 COAST LAW GROUP LLP

6
7 By: s/Marco A. Gonzalez

MARCO A. GONZALEZ

8 Attorneys for Plaintiff

9 COASTAL ENVIRONMENTAL

RIGHTS FOUNDATION

10 E-mail: marco@coastlawgroup.com

EXHIBIT A

60 Day Notice Letter



1140 S. Coast Highway 101
Encinitas, CA 92024

Tel 760-942-8505
Fax 760-942-8515
www.coastlawgroup.com

December 11, 2014

Mark R. Riley
Riley Recycling Inc
2817 Main Street
Chula Vista, CA 91911

VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Paul H. Sweeney, Sr.
2471 Calle de Pescadores
Alpine, CA 91901

**Re: Notice of Violation and Intent to File Clean Water Act Citizens' Suit
[33 U.S.C. § 1365] 60-Day Notice**

Dear Mr. Riley and Mr. Sweeney,

Please accept this letter on behalf of Coastal Environmental Rights Foundation ("CERF") regarding violations of the Federal Water Pollution Control Act (Clean Water Act) occurring at the Riley Recycling facility located at 15 28th Street, San Diego, CA (WDID No. 9371022805). This letter constitutes CERF's notice of intent to sue for violations of the Clean Water Act and National Pollution Discharge Elimination System (NPDES) Permit No. CAS000001 (General Industrial Permit), as more fully set forth below.

Section 505(b) of the Clean Water Act requires that sixty (60) days prior to the initiation of a citizen's civil lawsuit in Federal District Court under section 505(a) of the Act, a citizen must give notice of the violations and the intent to sue to the violator and various agency officials. (33 U.S.C. § 1365(b)(1)(A)). In compliance with section 1365, this letter provides notice of Riley Recycling's violations and of CERF's intent to sue.

I. BACKGROUND

A. Riley Recycling Facilities

Riley Recycling Inc (formerly Riley Recycling LLC) operates a scrap recycling facility at 15 28th Street in San Diego, California ("Facility" or "Riley"). The Facility has been enrolled under the General Industrial Permit since August 2010. Riley operates adjacent to Active Auto Dismantlers ("Active Auto"). Upon information available to CERF, the owners and operators of Active Auto own the property at which Riley operates. The owners of the property located at 15 28th Street and the owners/operators of Riley are collectively referred to as the "Riley Owners and/or Operators."

On or about October 2, 2014, CERF sent a 60-Day Notice Letter to Mr. Sweeney for Active Auto's various Clean Water Act violations. On or about December 9, 2014, CERF representatives conducted an inspection of the Active Auto site, as well as the Riley site, with Mr. and Mrs. Sweeney. During the site visit, numerous violations were noted and explained to both Mr. and Mrs. Sweeney, as well as Riley staff. This letter is a follow up to that visit, as well

Notice of Intent to Sue: Clean Water Act
Riley Recycling
December 11, 2014
Page 2

as subsequent review of the Riley Annual Reports.

B. Storm Water Pollution From Industrial Facilities

Storm water pollution results from materials and chemicals washed into the storm drains from streets, gutters, neighborhoods, industrial sites, parking lots and construction sites. This type of pollution is significant because storm water is often untreated and flows directly to receiving waters, including lakes, rivers, or ultimately the ocean. Storm water runoff associated with industrial facilities in particular has the potential to negatively impact receiving waters and contributes to the impairment of downstream waterbodies. Industrial areas are known to result in excessive wet-weather storm water discharges, as well as contaminated dry weather entries into the storm drain system.¹ "The bulk size of the recyclable waste materials and the processing equipment associated with these facilities frequently necessitates stockpiling materials and equipment outdoors. Consequently, there is significant opportunity for exposure of storm water runoff to pollutants." (Fed.Reg. Vol. 60, No. 189, p. 50953). Potential pollutants exposed to storm water at scrap and waste recycling facilities include, but are not limited to: oil and grease; metals including magnesium, aluminum, cadmium, zinc, steel or iron, cast iron, chromium, tin, lead, nickel, soft and silver solder, copper, stainless steel, silver, gold, platinum, brass and bronze; lead acid; hydraulic fluids and other lubricants. (*Id.* at pp. 50953-50956).

C. San Diego Bay and Pacific Ocean

Discharges from the Facility flow downstream into San Diego Bay and ultimately the Pacific Ocean. San Diego Bay is on the 303(d) list as impaired for numerous constituents, including metals such as copper and zinc. Therefore, discharges from the Facility contributes to the impairment of San Diego Bay and exacerbates such impairment.

D. Discharges From Riley Recycling

Riley has been enrolled under the General Industrial Permit since August 2010. Runoff appears to flow to the southwest corner of the property. An oil and water separator is located at this corner.

E. Coastal Environmental Rights Foundation

CERF is a California nonprofit public benefit corporation founded by surfers dedicated to the protection, preservation and enhancement of the environment, wildlife, natural resources, local marine waters and other coastal natural resources. CERF's interest are and will be adversely affected by Riley Owners and/or Operators' actions. CERF's mailing address is 1140 S. Coast Highway 101, Encinitas, CA 92024. Its telephone number is (760) 942-8505.

Members of CERF use and enjoy the waters into which pollutants from Riley's ongoing illegal activities are discharged, including San Diego Bay and the Pacific Ocean. The public and members of CERF use these receiving waters to fish, sail, boat, kayak, surf,

¹ *Illicit Discharge Detection and Elimination: Technical Appendices*, Appendix K, Specific Considerations for Industrial Sources of Inappropriate Pollutant Entries to the Storm Drainage System (Adapted from Pitt, 2001)

**Notice of Intent to Sue: Clean Water Act
Riley Recycling
December 11, 2014
Page 3**

swim, scuba dive, birdwatch, view wildlife, and to engage in scientific studies. The discharge of pollutants by Riley affects and impairs each of these uses. Thus, the interests of CERF's members have been, are being, and will continue to be adversely affected by the Riley Owners and/or Operators' failure to comply with the Clean Water Act and the General Industrial Permit.

II. CLEAN WATER ACT VIOLATIONS

The Clean Water Act (CWA) was amended in 1972 to provide that the discharge of pollutants to waters of the United States from any point source is effectively prohibited unless the discharge is in compliance with an NPDES permit. The 1987 amendments to the CWA added Section 402(p) that establishes a framework for regulating municipal and industrial storm water discharges under the NPDES Program. In 1990, US EPA published final regulations that require storm water associated with industrial activity that discharges either directly to surface waters or indirectly through municipal separate storm sewers be regulated by an NPDES permit. Any person who discharges storm water associated with industrial activities must comply with the terms of the General Industrial Permit in order to lawfully discharge pollutants. (33 U.S.C. §§1311(a), 1342; 40 CFR §126(c)(1); General Industrial Permit Fact Sheet, p. vii ["All facility operators filing an NOI after the adoption of this General Permit must comply with this General Permit."]).

As enrollees under the General Industrial Permit, Riley's Owners and/or Operators have failed and continue to fail to comply with the General Industrial Permit, as detailed below. Failure to comply with the General Industrial Permit is a Clean Water Act violation. (General Industrial Permit, §C.1).

A. Riley Discharged Contaminated Storm Water in Violation of the General Industrial Permit

Discharge Prohibition A(2) of the General Industrial Permit prohibits storm water discharges and authorized non-storm water discharges which cause or threaten to cause pollution, contamination, or nuisance. Receiving Water Limitation C(1) of the Storm Water Permit prohibits storm water discharges to surface or groundwater that adversely impact human health or the environment. In addition, receiving Water Limitation C(2) prohibits storm water discharges and authorized non-storm water discharges, which cause or contribute to an exceedance of any water quality standards, such as the CTR or applicable Basin Plan water quality standards. "The California Toxics Rule ("CTR"), 40 C.F.R. 131.38, is an applicable water quality standard." (*Baykeeper v. Kramer Metals, Inc.* (C.D.Cal. 2009) 619 F.Supp.2d 914, 926). "In sum, the CTR is a water quality standard in the General Permit, Receiving Water Limitation C(2). A permittee violates Receiving Water Limitation C(2) when it 'causes or contributes to an exceedance of' such a standard, including the CTR." (*Id.* at 927).

If a discharger violates Water Quality Standards, the General Industrial Permit and the Clean Water Act require that the discharger implement more stringent controls necessary to meet such Water Quality Standards.(General Industrial Permit, Fact Sheet p. viii; 33 U.S.C. § 1311(b)(1)(C)). The Riley Owners and/or Operators have failed to comply with this requirement, violating Water Quality Standards without implementing BMPs to achieve BAT/BCT or revising their SWPPP pursuant to section (C)(3).

Notice of Intent to Sue: Clean Water Act
Riley Recycling
December 11, 2014
Page 4

As demonstrated by sample data submitted by Riley, from at least February 26, 2011 through the present, Riley Owners and/or Operators have discharged and continue to discharge storm water containing pollutants at levels in violation of the above listed prohibitions and limitations. Riley's own sampling data is not subject to impeachment. (*Baykeeper, supra*, 619 F.Supp. 2d at 927, citing *Sierra Club v. Union Oil Co. of Cal.*, (9th Cir. 1987) 813 F.2d 1480, 1492 ["when a permittee's reports indicate that the permittee has exceeded permit limitations, the permittee may not impeach its own reports by showing sampling error"]).

This data further demonstrates the Riley Facility continuously discharges contaminated storm water during rain events which have not been sampled. (See Exhibit B, Rainfall data).

Annual Sampling Data			Applicable CTR Limit (mg/L)	
Date/time of sample collection	Parameter	Result (mg/L)	Maximum Conc.	Continuous Conc.
2/26/2011	Copper Total	.082	0.013	0.009
2/26/2011	Lead Total	.143	0.013	0.009
2/26/2011	Zinc Total	0.578	0.12	0.12

Every day the Riley Owners and/or Operators discharged or continue to discharge polluted storm water in violation of the Discharge Prohibitions and Receiving Water Limitations of the General Industrial Permit is a separate and distinct violation of the Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a). The Riley Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since February 26, 2011. These violations are ongoing and the Riley Owners and/or Operators' violations will continue each day contaminated storm water is discharged in violation of the requirements of the General Industrial Permit. (See Exhibit B, Rainfall data). CERF will include additional violations when information becomes available.

B. Failure to Develop and/or Implement BMPs that Achieve Compliance with Best Available Technology Economically Achievable and Best Conventional Pollutant Control Technology

Effluent Limitation (B)(3) of the Storm Water Permit requires dischargers to reduce or prevent pollutants associated with industrial activity in storm water discharges and authorized non-storm water discharges through implementation of the Best Available Technology Economically Achievable (BAT) for toxic pollutants² and Best Conventional Pollutant Control Technology (BCT) for conventional pollutants.³

² Toxic pollutants are found at 40 CFR § 401.15 and include, but are not limited to: lead, nickel, zinc, silver, selenium, copper, and chromium.

³ Conventional pollutants are listed at 40 CFR § 401.16 and include biological oxygen demand, total suspended solids, pH, fecal coliform, and oil and grease.

Notice of Intent to Sue: Clean Water Act
Riley Recycling
December 11, 2014
Page 5

EPA Benchmarks are the pollutant concentrations which indicate whether a facility has successfully developed or implemented BMPs that meet the BAT/BCT. For scrap metal yards (SIC 5093), the EPA has instituted the following benchmarks⁴:

Parameter	Benchmark Monitoring Cutoff Concentration (mg/L)
Total Suspended Solids (TSS)	100
Total Recoverable Aluminum	.75
Total Recoverable Copper (hardness dependent)	.0038-.0332 .0156 at 100-125 mg/L hardness
Total Recoverable Iron	1.0
Total Recoverable Lead (hardness dependent)	.014-.262 .095 at 100-125 mg/L hardness
Total Recoverable Zinc (hardness dependent)	.04-.26 .13 at 100-125 mg/L hardness

Discharges with pollutant concentration levels above EPA Benchmarks and/or the CTR demonstrate that a facility has failed to develop and/or implement BMPs that achieve compliance with BAT for toxic pollutants and BCT for conventional pollutants. The Riley 2010-2011 Annual Report demonstrates exceedances of not only the CTR, but also EPA benchmarks.

Annual Sampling Data 636 Front Street Location			
Date/time of sample collection	Parameter	Result (mg/L)	EPA Benchmark (mg/L)
2/26/2011	Aluminum	6.73	.75
2/26/2011	Copper	.082	.0156
2/26/2011	Iron	13.1	1.0
2/26/2011	Lead	.143	.095
2/26/2011	Zinc	.578	.13

Thus, the Riley Owners and/or Operators' storm water discharge sampling data demonstrates the Riley Owners and/or Operators have not developed and/or implemented BMPs that meet the standards of BAT/BCT. (See *Baykeeper, supra*, 619 F.Supp. 2d at 925 ["Repeated and/or significant exceedances of the Benchmark limitations should be relevant" to

⁴ 2008 Storm Water Multi-Sector General Permit for Industrial Activities, Sector N, Table 8.N -1

Notice of Intent to Sue: Clean Water Act
Riley Recycling
December 11, 2014
Page 6

the determination of meeting BAT/BCT]). Observations and photographs of the Riley Facility confirm these violations. (See Exhibit A, Photos). Site visit photographs show a lack of adequate BMPs at the Facility including large piles of scrap with no covering or containment. (See Exhibit A). These large piles consist of metals, shavings, scrap parts, and other appliances. Indeed, during a January 2014 site visit, the Regional Board and State Water Board staff found numerous violations, including deficient BMPs. (See Exhibit A).

In addition, the Facility is paved and littered with debris and stained from storm water pollutants, including oil. The dirt, debris, sediment and pollutants at this Facility are picked up during rain events and carried into the storm drains, eventually making their way to downstream receiving waters.

Sources of pollutants at the Riley Facility are numerous, including but not limited to: scrap metal ferrous and non-ferrous outdoor storage areas; scrap metal, miscellaneous machinery, obsolete equipment, and used appliances, piles of turnings and cuttings; and onsite material handling equipment and forklifts. Pollutants associated with the Riley Facility include but are not limited to: toxic metals such as copper, iron, zinc, lead, cadmium and aluminum; petroleum products including oil, fuel, grease, transmission fluids, brake fluids, hydraulic oil and diesel fuel; chemical admixtures, battery fluids, refrigerator and other appliance fluids, acids and solvents; total suspended solids and pH-affecting substances; and fugitive and other dust, dirt and debris.

At the Riley Facility, virtually no BMPs are in place to prevent storm water and non-storm water from contacting the aforementioned pollutant sources. Although a concrete "wall" has been erected (ostensibly to prevent migration of scrap piles) and berms have been placed to convey storm water to a separator, the berms are ineffective and likely convey water around the treatment device, while the concrete blocks do not prevent polluted water from leaving the site. In addition, the straw waddle at the perimeter of the treatment device appears saturated with oil and contaminants and has deteriorated to a state of likely being a source of contaminants rather than a BMP.

Thus, the Riley Owners and/or Operators are seriously in violation of Effluent Limitation (B)(3) of the Storm Water Permit. Every day the Riley Owners and/or Operators operate with inadequately developed and/or implemented BMPs in violation of the BAT/BCT requirements in the General Industrial Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act. (33 U.S.C. § 1311 (a)). The Riley Owners and/or Operators have been in daily and continuous violation of the BAT/BCT requirements of the General Industrial Permit every day since at least August 2010. These violations are ongoing and the Riley Owners and/or Operators will continue to be in violation every day they fail to develop and/or implement BMPs that achieve BAT/BCT to prevent or reduce pollutants associated with industrial activity in storm water discharges at the Riley Facility. The Riley Owners and/or Operators are subject to penalties for all violations of the General Industrial Permit and the Clean Water Act occurring since at least August 2010. Thus, the Riley Facility Owners and/or Operators are liable for civil penalties for 1561 violations of the General Industrial Permit and the Clean Water Act.

Notice of Intent to Sue: Clean Water Act
Riley Recycling
December 11, 2014
Page 7

C. Failure to Develop and/or Implement an Adequate Storm Water Pollution Prevention Plan

Section A(1) and Provision E(2) of the General Industrial Permit require dischargers to have developed and implemented a SWPPP by October 1, 1992, or prior to beginning industrial activities, that meets all of the requirements of the Storm Water Permit. The objective behind the SWPPP requirements is to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges from the Riley Facility, and implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges. (General Industrial Permit, Section A(2)). To ensure its effectiveness, the SWPPP must be evaluated on an annual basis pursuant to the requirements of Section A(9), and must be revised as necessary to ensure compliance with the Permit. (General Industrial Permit, Section A(9), (10)).

In addition, section A(3) - A(10) of the General Industrial Permit sets forth the requirements for a SWPPP, including but not limited to: a site map showing the facility boundaries, storm water drainage areas with flow patterns, nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, areas of actual and potential pollutant contact, and areas of industrial activity (Section A(4)); a list of significant materials handled and stored at the site (Section A(5)); and, a description of potential pollutant sources including industrial processes, material handling and storage areas, dust and particulate generating activities, a description of significant spills and leaks, a list of all non-storm water discharges and their sources and a description of locations where soil erosion may occur (Section A(6)). Sections A(7) and (8) require an assessment of potential pollutant sources at the facility and a description of the BMPs to be implemented at the facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective.

CERF investigators' observations of the conditions at the Riley Facility and sampling data from storm water discharges from the Riley Facility, which are set forth in detail above, indicate the Riley Owners and/or Operators have not developed or implemented an adequate SWPPP that meets the requirements of Section A of the General Industrial Permit. Indeed, historical aerial photographs and more recent street-level photographs show a variety of materials, including scrap metal and electronics, stored without cover or containment. (See Exhibit A, Photos).

Every day the Riley Owners and/or Operators operate the Riley Facility without an adequately developed and/or implemented SWPPP is a separate and distinct violation of the General Industrial Permit and Section 301(a) of the Clean Water Act. (33 U.S.C. § 1311(a)). The Riley Facility Owners and/or Operators have been in daily and continuous violation of the General Industrial Permit's SWPPP requirements every day since at least August 2010. These violations are ongoing and the Riley Facility Owners and/or Operators will continue to be in violation every day they fail to revise, develop, and/or implement an adequate SWPPP for the Facility.

The Riley Owners and/or Operators are thus subject to penalties for all SWPPP-related violations of the General Industrial Permit and the Clean Water Act occurring since at least August 2010. The Riley Owners and/or Operators are liable for civil penalties for 1561 violations of the General Industrial Permit and the Act.

Notice of Intent to Sue: Clean Water Act
Riley Recycling
December 11, 2014
Page 8

D. Failure to Monitor

The Riley Owners and/or Operators have further failed to sample two storm events as required since enrollment under the General Industrial Permit. Indeed, Riley Owners and/or Operators have only sampled once since enrollment. Sections B(5) and (7) of the General Industrial Permit require dischargers to visually observe and collect samples of storm water discharged from all locations where storm water is discharged. Facility operators, including the Riley Owners and/or Operators, are required to collect samples from at least two qualifying storm events each wet season, including one set of samples during the first storm event of the wet season. Required samples must be collected by Facility operators from all discharge points and during the first hour of the storm water discharge from the Facility.

The Riley Owners and/or Operators have not only failed to obtain two samples as required, despite qualifying rain events during business hours (See Exhibit B, rainfall data), but also failed to monitor all of the required constituents the one time monitoring was conducted. In connection with the February 26, 2014 sampling event, the Riley Owners and/or Operators failed to monitor pH and TSS as required. The Riley Owners and/or Operators are thus subject to penalties in accordance with the General Industrial Permit – punishable by a minimum of \$37,500 per day of violation. (33 U.S.C. §1319(d); 40 CFR 19.4).

III. Remedies

Upon expiration of the 60-day period, CERF will file a citizen suit under Section 505(a) of the Clean Water Act for the above-referenced violations. During the 60-day notice period, however, CERF is willing to discuss effective remedies for the violation noted in this letter. If you wish to pursue such discussions in the absence of litigation, it is suggested that you initiate those discussions immediately. If good faith negotiations are not being made, at the close of the 60-day notice period, CERF will move forward expeditiously with litigation.

CERF's action will seek all remedies available under the Clean Water Act § 1365(a)(d). CERF will seek to enjoin the illegal discharges from the Fabrication Technologies Industries facility. CERF will also seek the maximum penalty available under the law which is \$37,500 per day.

CERF may further seek a court order to prevent Riley from discharging pollutants. A strong or substantial likelihood of success on the merits of CERF's claim exists, and irreparable injuries to the public, public trust resources, and the environments will result if Riley further discharges pollutants into the San Diego Bay and Pacific Ocean.

Lastly, section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), permits prevailing parties to recover costs, including attorneys' and experts' fees. CERF will seek to recover all of its costs and fees pursuant to section 505(d).

**Notice of Intent to Sue: Clean Water Act
Riley Recycling
December 11, 2014
Page 9**

IV. Conclusion

CERF has retained legal counsel to represent it in this matter. Please direct all communications to Coast Law Group:

**Marco A. Gonzalez
COAST LAW GROUP LLP
1140 S. Coast Highway 101
Encinitas, CA 92024
Tel: (760) 942-8505 x 102
Fax: (760) 942-8515
Email: marco@coastlawgroup.com**

CERF will entertain settlement discussions during the 60-day notice period. Should you wish to pursue settlement, please contact Coast Law Group LLP at your earliest convenience.

Sincerely,

COAST LAW GROUP LLP


Marco A. Gonzalez



Livia Borak
Attorneys for
Coastal Environmental Rights Foundation

CC:

Jared Blumenfeld, Region 9 Administrator Alexis Strauss, Deputy Regional Administrator U.S. EPA, Region 9 75 Hawthorne Street San Francisco, CA, 94105	Dave Gibson, Executive Officer Catherine Hagan, Staff Counsel San Diego Regional Water Quality Control Board 2375 Northside Drive, Suite 100 San Diego, CA 92108-2700
Gina McCarthy EPA Administrator Mail Code 4101M US EPA Ariel Rios Building (AR) 1200 Pennsylvania Avenue N.W. Washington, DC 20004	Thomas Howard Executive Director State Water Resources Control Board P.O. Box 100 Sacramento, CA 95812-0110

Notice of Intent to Sue: Clean Water Act
Riley Recycling
December 11, 2014
Page 10

Index of Attachments

Exhibit A: Photos–December 9, 2014 Site Visit and
January 2014 Regional Board/State Board site visit
Aerial and Street view historic photographs

Exhibit B: Rainfall Data

Exhibit C: Sector N Fact Sheet

EXHIBIT A















Google Image Aerial View



Street View Google Maps (July 2011)



Historical Street View Google Maps (Jan 2011)



Aerial Bing Maps



Bing Maps Street View



Bing Maps Street View

EXHIBIT B

Qualifying Rainfall Events (.1 inches of rain or more) During Business Hours**NOAA National Climactic Data Center**Stations: **COOP:047740** - SAN DIEGO LINDBERGH FIELD, CA USData Types: **HPCP** - Precipitation (100th of an inch)

2009

<u>Month</u>	<u>Inches</u>	<u>Time:</u>
6-Feb	0.61	
7-Feb	0.74	
8-Feb	0.2	
9-Feb	0.21	8:00 AM
10-Feb	0.34	
14-Feb	0.13	
16-Feb	0.62	12:00 PM
22-Mar	0.22	11:00 AM
31-May	0.13	
4-Jun	0.13	
29-Nov	0.35	
7-Dec	0.13	9:00 AM
8-Dec	1.99	
12-Dec	0.13	
13-Dec	0.88	
TOTAL	6.81	

2010

<u>Month</u>	<u>Inches</u>	<u>Time:</u>
18-Jan	0.1	4:00 PM
19-Jan	1.4	1:00 PM
20-Jan	7.4	
21-Jan	1.65	12:00 PM
22-Jan	1.41	
23-Jan	0.29	
27-Jan	0.14	
6-Feb	0.17	11:00 AM
7-Feb	0.27	
10-Feb	0.47	
20-Feb	0.49	
22-Feb	0.12	
27-Feb	0.2	
28-Feb	1.27	
7-Mar	0.38	10:00 AM
8-Mar	0.3	
1-Apr	0.49	
6-Apr	0.15	
12-Apr	0.65	4:30 PM
22-Apr	0.47	
6-Oct	0.43	
20-Oct	0.9	12:00 PM
21-Oct	0.12	
30-Oct	0.38	8:00 AM
20-Nov	0.69	2:00 PM
21-Nov	0.12	11:00 AM
24-Nov	0.87	
20-Dec	0.83	
21-Dec	3.46	8:00 AM
22-Dec	0.48	8:00 AM
26-Dec	0.69	
30-Dec	1.8	9:00 AM
TOTAL	28.59	

Qualifying Rainfall Events (.1 inches of rain or more) During Business Hours**NOAA National Climactic Data Center**Stations: **COOP:047740** - SAN DIEGO LINDBERGH FIELD, CA USData Types: **HPCP** - Precipitation (100th of an inch)

2011

<u>Month</u>	<u>Inches</u>	<u>Time:</u>
3-Jan	0.85	
4-Jan	0.1	
18-Feb	0.24	5:00 AM
20-Feb	0.2	
26-Feb	0.8	
27-Feb	0.22	
7-Mar	0.2	
21-Mar	0.89	
22-Mar	0.14	
24-Mar	0.25	
26-Mar	0.15	
9-Apr	0.14	
18-May	0.73	
29-May	0.1	
4-Nov	0.34	4:00 PM
12-Nov	1.04	1:00 PM
12-Dec	0.96	9:00 AM
TOTAL	7.35	

2012

<u>Month</u>	<u>Inches</u>	<u>Time:</u>
23-Jan	0.2	2:00 PM
24-Jan	0.28	
7-Feb	0.23	4:00 PM
14-Feb	0.34	
16-Feb	0.2	
28-Feb	0.72	
17-Mar	0.24	1:00 PM
18-Mar	0.47	
25-Mar	0.43	5:00 PM
1-Apr	0.11	
11-Apr	0.45	
13-Apr	0.33	4:00 PM
26-Apr	0.61	
12-Oct	0.77	
8-Nov	0.14	
1-Dec	0.23	
13-Dec	1.6	8:00 AM
14-Dec	0.28	
15-Dec	0.37	
19-Dec	0.47	
25-Dec	0.37	
30-Dec	0.28	
TOTAL	9.12	

Qualifying Rainfall Events (.1 inches of rain or more) During Business Hours**NOAA National Climactic Data Center**Stations: **COOP:047740** - SAN DIEGO LINDBERGH FIELD, CA USData Types: **HPCP** - Precipitation (100th of an inch)

2013

<u>Month</u>	<u>Inches</u>
7-Jan	0.26
25-Jan	0.23
26-Jan	0.73
27-Jan	0.1
9-Feb	0.15
20-Feb	0.3
9-Mar	0.2
21-Nov	0.28
22-Nov	0.2
8-Dec	0.17
20-Dec	0.1
TOTAL	2.72

2014

<u>Month</u>	<u>Inches</u>
3-Feb	0.25
7-Feb	0.37
27-Feb	0.1
28-Feb	0.46
1-Mar	0.76
2-Mar	0.6
2-Apr	0.22
26-Apr	0.13
TOTAL	2.89

EXHIBIT C

INDUSTRIAL STORMWATER

FACT SHEET SERIES

Sector N: Scrap Recycling and Waste Recycling Facilities



U.S. EPA Office of Water
EPA-833-F-06-029
December 2006

What is the NPDES stormwater program for industrial activity?

Activities, such as material handling and storage, equipment maintenance and cleaning, industrial processing or other operations that occur at industrial facilities are often exposed to stormwater. The runoff from these areas may discharge pollutants directly into nearby waterbodies or indirectly via storm sewer systems, thereby degrading water quality.

In 1990, the U.S. Environmental Protection Agency (EPA) developed permitting regulations under the National Pollutant Discharge Elimination System (NPDES) to control stormwater discharges associated with eleven categories of industrial activity. As a result, NPDES permitting authorities, which may be either EPA or a state environmental agency, issue stormwater permits to control runoff from these industrial facilities.

What types of industrial facilities are required to obtain permit coverage?

This fact sheet specifically discusses stormwater discharges various industries including scrap recycling and waste recycling facilities as defined by Standard Industrial Classification (SIC) Major Group Code 50 (5093). Facilities and products in this group fall under the following categories, all of which require coverage under an industrial stormwater permit:

- ◆ *Scrap and waste recycling facilities (non-source separated, non-liquid recyclable materials)* engaged in processing, reclaiming, and wholesale distribution of scrap and waste materials such as ferrous and nonferrous metals, paper, plastic, cardboard, glass, and animal hides.
- ◆ *Waste recycling facilities (liquid recyclable materials)* engaged in reclaiming and recycling liquid wastes such as used oil, antifreeze, mineral spirits, and industrial solvents.
- ◆ *Recycling facilities* that only receive source-separated recyclable materials primarily from non-industrial and residential sources (i.e., common consumer products including paper, newspaper, glass, cardboard, plastic containers, aluminum and tin cans); including recycling facilities commonly referred to as material recovery facilities (MRF).

What does an industrial stormwater permit require?

Common requirements for coverage under an industrial stormwater permit include development of a written stormwater pollution prevention plan (SWPPP), implementation of control measures, and submittal of a request for permit coverage, usually referred to as the Notice of Intent or NOI. The SWPPP is a written assessment of potential sources of pollutants in stormwater runoff and control measures that will be implemented at your facility to minimize the discharge of these pollutants in runoff from the site. These control measures include site-specific best management practices (BMPs), maintenance plans, inspections, employee training, and reporting. The procedures detailed in the SWPPP must be implemented by the facility and updated as necessary, with a copy of the SWPPP kept on-site. The industrial stormwater permit also requires collection of visual, analytical, and/or compliance monitoring data to determine the effectiveness of implemented BMPs. For more information on EPA's industrial stormwater permit and links to State stormwater permits, go to www.epa.gov/npdes/stormwater and click on "Industrial Activity."

INDUSTRIAL STORMWATER FACT SHEET SERIES

Sector N: Scrap Recycling and Waste Recycling Facilities**What pollutants are associated with activities at my facility?**

Pollutants conveyed in stormwater discharges from scrap recycling and waste recycling facilities will vary. There are a number of factors that influence to what extent industrial activities and significant materials can affect water quality.

- ◆ Geographic location
- ◆ Topography
- ◆ Hydrogeology
- ◆ Extent of impervious surfaces (e.g., concrete or asphalt)
- ◆ Type of ground cover (e.g., vegetation, crushed stone, or dirt)
- ◆ Outdoor activities (e.g., material storage, loading/unloading, vehicle maintenance)
- ◆ Size of the operation
- ◆ Type, duration, and intensity of precipitation events

Each scrap recycling and waste recycling facility is unique in regards to sources, type, and volume of contaminated stormwater discharges. Sources of pollutants other than stormwater, such as illicit connections, spills, and other improperly dumped materials, may increase pollutant loadings in discharges. Each of the three types of facilities included in the scrap recycling and waste recycling facilities group are dissimilar from one another in the operations and types of materials handled. As a result, there is variation in pollutants for which BMPs may be necessary to address.

The activities, pollutant sources, and pollutants detailed in Table 1 are commonly found at scrap recycling and waste recycling facilities.

Table 1. Common Activities, Pollutant Sources, and Associated Pollutants at Scrap Recycling and Waste Recycling Facilities

Activity	Pollutant Source	Pollutant
<i>Scrap and Waste Recycling Facilities (non-source separated, non-liquid recyclable materials)</i>		
Stockpiling and storage of materials (including loading and unloading)	Leaking of various fluids from used automotive engines, radiators, brake fluid reservoirs, transmission housings, other vehicle parts, and lead-acid from batteries	PCBs, oil and grease, lubricants, paint pigments or additives, heavy metals, ionizing radioactive isotopes, transmission and brake fluids, fuel, battery acid, lead acid, antifreeze, benzene, chemical residue, heating oil, petroleum products, solvents, ionizing radioactive isotopes, infectious/bacterial contamination, asbestos, metals, total Kjeldahl nitrogen (TKN), battery acid, oily wastes, chemical residue
	Deterioration/corrosion of materials	
Material processing: Air pollution equipment (including incinerators, furnaces, wet scrubbers, filter houses, and bag houses)	Normal equipment operations that include the collection and disposal of filter bag material and ash, process wastewater from scrubbers, accumulation of particulate matter around leaking joint connections, malfunctioning pumps and motors (e.g., leaking gaskets, seals or pipe connections, leaking oil-filled transformer casings)	Hydraulic fluids, oils, fuels, grease and other lubricants, accumulated particulate matter, chemical additives, and PCBs from oil-filled electrical equipment.

INDUSTRIAL STORMWATER FACT SHEET SERIES

Sector N: Scrap Recycling and Waste Recycling Facilities**Table 1. Common Activities, Pollutant Sources, and Associated Pollutants at Scrap Recycling and Waste Recycling Facilities (continued)**

Activity	Pollutant Source	Pollutant
Material processing: Combustion engines	Spills and/or leaks from fuel tanks, spills/leaks from oil/hydraulic fuel reservoirs, faulty/leaking hose connections, worn gaskets, leaking transmissions, crankcases, and brake systems (if applicable), leaking battery casings and/or corroded terminals	Accumulated particulate matter, oil/lubricants, gas/diesel fuel, fuel additives, antifreeze (ethylene glycol), battery acid, and products of incomplete combustion
Material processing: Material handling systems (forklifts, cranes, and conveyors)	Spills and leaks from fuel tanks, hydraulic and oil reservoirs due to malfunction parts (e.g., worn gaskets and parts, leaking hose connections, and faulty seals).	Hydraulic fluids, oils, fuels and fuel additives, grease and other lubricants, accumulated particulate matter, chemical additives, mercury, lead, battery acid
	Damaged or faulty electrical switches (mercury filled).	
	Damaged or leaking battery casings, including exposed corroded battery terminals.	
	Damaged or worn bearing housings	
Material processing: Stationary scrap processing facilities (balers, briquetters, shredders, shearers, compactors, engine block/cast iron breakers, wire chopper, turnings crusher)	Leaks from hydraulic reservoirs, hose and fitting connections, worn gaskets, spills or leaks from fuel tanks, particulates/residue from scrap processing, malfunctioning pumps and motors (e.g., leaking gaskets, seals or pipe connections, leaking oil-filled transformer casings)	Heavy metals (e.g., zinc, copper, lead, cadmium, chromium) and hydraulic fluids, PCBs
Material processing: Hydraulic equipment and systems, balers/briquetter, shredders, shearers, compactors, engine block/cast iron breaker, wire chopper, turnings crusher	Particulate/residue from material processing, spills and/or leaks from fuel tanks, spills/leaks from oil/hydraulic fuel reservoirs, faulty/leaking hose connections/fittings, leaking gaskets	Hydraulic fluids/oils, lubricants, particulate matter from combustion engines, PCBs (oilfilled electrical equipment components), heavy metals (nonferrous, ferrous)
Material processing: Electrical control systems (transformers, electrical switch gear, motor starters)	Oil leakage from transformers, leakage from mercury float switches, faulty detection devices	PCBs, mercury (float switches), ionizing radioactive material (fire/smoke detection systems)
Material processing: Torch cutting	Residual/accumulated particulates	Heavy metal fragments, fines
Material handling systems	Spills and/or leaks from fuel tanks, spills/leaks from oil/hydraulic fuel reservoirs, faulty/leaking hose connections/fittings, leaking gaskets	Accumulated particulate matter (ferrous and nonferrous metals, plastics, rubber, other), oil/lubricants, PCBs (electrical equipment), mercury (electrical controls), lead/battery acids
Vehicle maintenance	Parts cleaning, waste disposal of rags, oil filters, air filters, batteries, hydraulic fluids, transmission fluids, brake fluids, coolants, lubricants, degreasers, spent solvents	Gas/diesel fuel, fuel additives, oil/lubricants, heavy metals, brake fluids, transmission fluids, chlorinated solvents, arsenic
Vehicle fueling	Spills and leaks during fuel transfer, spills due to "topping off" tanks, runoff from fueling areas, washdown of fueling areas, leaking storage tanks, spills of oils, brake fluids, transmission fluids, engine coolants	Gas/diesel fuel, fuel additives, oil, lubricants, heavy metals
Vehicle and equipment cleaning and washing	Washing and steam cleaning	Solvent cleaners, oil/lubricants/additives, antifreeze (ethylene glycol)

INDUSTRIAL STORMWATER FACT SHEET SERIES

Sector N: Scrap Recycling and Waste Recycling Facilities**Table 1. Common Activities, Pollutant Sources, and Associated Pollutants at Scrap Recycling and Waste Recycling Facilities (continued)**

Activity	Pollutant Source	Pollutant
Waste Recycling Facilities (liquid recyclable materials)		
Drum/individual container storage and handling	Leaks or spills due to faulty container/drum integrity (e.g., leaking seals or ports). Container materials incompatible with waste material. Improper stacking and storage of containers	Mineral spirits, industrial solvents, immersion cleaners, dry cleaner, solvents, paint solvents, spent antifreeze
Return and fill stations	Leaks, spills, or overflows from tanker truck transfer of wastes and hose drainage. Leaking pipes, valves, pumps, worn or deteriorated gaskets or seals	Mineral spirits, industrial solvents, immersion cleaners, dry cleaner, solvents, paint solvents, spent antifreeze
Storage tank operations	Overfill of storage tanks, leaking pipes, valves, worn or deteriorated pumps seals. Leaking underground storage tanks.	Mineral spirits, industrial solvents, immersion cleaners, dry cleaner, solvents, paint solvents, spent antifreeze
Material handling equipment	Leaking fuel lines, worn gaskets, leaking hydraulic lines and connections	Fuel, hydraulic fluid, oil and grease
Vehicle and equipment maintenance (if applicable)	Replacement of fluids such as transmission and brake fluids, antifreeze, oil and other lubricants, washdown of maintenance areas, dumping fluids down floor drains connected to storm sewer system, outside storage of fluids and oily rags and waste material	Oil and grease, fuel, accumulated particulate matter, antifreeze
Vehicle or equipment washing (if applicable)	Wash water or steam cleaning	Oil, detergents, chlorinated solvents, suspended solids and accumulated particulate matter
Recycling Facilities		
Unknowing acceptance of nonrecyclable materials and/or small quantities of household hazardous wastes	Inbound recyclable materials	Dependant on material
Outdoor material storage	Deterioration of wastepaper and unprocessed aluminum beverage containers	Biochemical oxygen demand (BOD)
Processing and storage	Illicit connections or improper dumping to floor drains discharging to a storm sewer system Washing down tipping floor areas	Dependant on material
Vehicle maintenance	Replacement of fluids such as transmission and brake fluids, antifreeze, oil and other lubricants, washdown of maintenance areas, dumping fluids down floor drains connected to storm sewer system, outside storage of fluids and oily rags and waste material	Oil and grease, gas/diesel fuel, accumulated particulate matter, antifreeze (ethylene glycol)

INDUSTRIAL STORMWATER FACT SHEET SERIES

Sector N: Scrap Recycling and Waste Recycling Facilities***What BMPs can be used to minimize contact between stormwater and potential pollutants at my facility?***

A variety of BMP options may be applicable to eliminate or minimize the presence of pollutants in stormwater discharges from scrap recycling and waste recycling facilities. You will likely need to implement a combination or suite of BMPs to address stormwater runoff at your facility. Your first consideration should be for pollution prevention BMPs, which are designed to prevent or minimize pollutants from entering stormwater runoff and/or reduce the volume of stormwater requiring management. Prevention BMPs can include regular cleanup, collection and containment of debris in storage areas, and other housekeeping practices, spill control, and employee training. It may also be necessary to implement treatment BMPs, which are engineered structures intended to treat stormwater runoff and/or mitigate the effects of increased stormwater runoff peak rate, volume, and velocity. Treatment BMPs are generally more expensive to install and maintain and include oil-water separators, wet ponds, and proprietary filter devices.

BMPs must be selected and implemented to address the following:

Good Housekeeping Practices

Good housekeeping is a practical, cost-effective way to maintain a clean and orderly facility to prevent potential pollution sources from coming into contact with stormwater. It includes establishing protocols to reduce the possibility of mishandling materials or equipment and training employees in good housekeeping techniques. Common areas where good housekeeping practices should be followed include trash containers and adjacent areas, material storage areas, vehicle and equipment maintenance areas, and loading docks. Good housekeeping practices must include a schedule for regular pickup and disposal of garbage and waste materials and routine inspections of drums, tanks, and containers for leaks and structural conditions. Practices also include containing and covering garbage, waste materials, and debris. Involving employees in routine monitoring of housekeeping practices has proven to be an effective means of ensuring the continued implementation of these measures.

Minimizing Exposure

Where feasible, minimizing exposure of potential pollutant sources to precipitation is an important control option. Minimizing exposure prevents pollutants, including debris, from coming into contact with precipitation and can reduce the need for BMPs to treat contaminated stormwater runoff. It can also prevent debris from being picked up by stormwater and carried into drains and surface waters. Examples of BMPs for exposure minimization include covering materials or activities with temporary structures (e.g., tarps) when wet weather is expected or moving materials or activities to existing or new permanent structures (e.g., buildings, silos, sheds). Even the simple practice of keeping a dumpster lid closed can be a very effective pollution prevention measure.

Erosion and Sediment Control

BMPs must be selected and implemented to limit erosion on areas of your site that, due to topography, activities, soils, cover, materials, or other factors are likely to experience erosion. Erosion control BMPs such as seeding, mulching, and sodding prevent soil from becoming dislodged and should be considered first. Sediment control BMPs such as silt fences, sediment ponds, and stabilized entrances trap sediment after it has eroded. Sediment control BMPs should be used to back-up erosion control BMPs.

Management of Runoff

Your SWPPP must contain a narrative evaluation of the appropriateness of stormwater management practices that divert, infiltrate, reuse, or otherwise manage stormwater runoff so as to reduce the discharge of pollutants. Appropriate measures are highly site-specific, but may include, among others, vegetative swales, collection and reuse of stormwater, inlet controls, snow management, infiltration devices, and wet retention measures.

INDUSTRIAL STORMWATER FACT SHEET SERIES

Sector N: Scrap Recycling and Waste Recycling Facilities

A combination of preventive and treatment BMPs will yield the most effective stormwater management for minimizing the offsite discharge of pollutants via stormwater runoff. Though not specifically outlined in this fact sheet, BMPs must also address preventive maintenance records or logbooks, regular facility inspections, spill prevention and response, and employee training.

All BMPs require regular maintenance to function as intended. Some management measures have simple maintenance requirements, others are quite involved. You must regularly inspect all BMPs to ensure they are operating properly, including during runoff events. As soon as a problem is found, action to resolve it should be initiated immediately.

Implement BMPs, such as those listed below in Table 2 for the control of pollutants at scrap recycling and waste recycling facilities, to minimize and prevent the discharge of pollutants in stormwater. Identifying weaknesses in current facility practices will aid the permittee in determining appropriate BMPs that will achieve a reduction in pollutant loadings. BMPs listed in Table 2 are broadly applicable to scrap recycling and waste recycling facilities; however, this is not a complete list and you are recommended to consult with regulatory agencies or a stormwater engineer/consultant to identify appropriate BMPs for your facility.

Table 2. BMPs for Potential Pollutant Sources at Scrap Recycling and Waste Recycling Facilities

Activity	BMPs
<i>Scrap and Waste Recycling Facilities (non-source separated, non-liquid recyclable materials)</i>	
Inbound recyclable and waste material control	<ul style="list-style-type: none"> <input type="checkbox"/> Provide information/education to suppliers of scrap and recyclable waste materials on draining and properly disposing of residual fluids (e.g., from vehicles and equipment engines, radiators and transmissions, oil filled transformers, and individual containers or drums), prior to delivery to your facility. <input type="checkbox"/> Create a written list of materials that will not be accepted at the facility and materials that will be accepted, but require special handling procedures. <input type="checkbox"/> Train employees engaged in the inspection and acceptance of inbound recyclable materials. <input type="checkbox"/> Inspect incoming materials for items on the prohibited materials/ special handling list. Have truck drivers picking up loads offsite conduct preliminary inspections for items on the list before hauling. <input type="checkbox"/> Check incoming scrap materials for potential fluid contents and batteries. <input type="checkbox"/> Drain all fluids from vehicles upon arrival at the site. Segregate the fluids and properly store or dispose of them. Drain fluids only in designated area over impervious surfaces or drip pans. Contain the area to prevent stormwater run-on and runoff. Cover area with roofs or tarps. <input type="checkbox"/> Keep waste streams separate (e.g., waste oil and mineral spirits). <input type="checkbox"/> Store liquid wastes, including used oil, in materially compatible and non-leaking containers and disposed or recycled in accordance with RCRA. Nonhazardous substances that are contaminated with a hazardous substance are considered a hazardous substance. <input type="checkbox"/> Recycle antifreeze, gasoline, used oil, mineral spirits, and solvents. <input type="checkbox"/> Dispose of greasy rags, oil filters, air filters, batteries, spent coolant, and degreasers properly. <input type="checkbox"/> Label and track the recycling of waste material (e.g., used oil, spent solvents, batteries). <input type="checkbox"/> Drain oil filters before disposal or recycling. <input type="checkbox"/> Store cracked batteries in a nonleaking secondary container. <input type="checkbox"/> Promptly transfer used fluids to the proper container. Do not leave full drip pans or other open containers around the shop. Empty and clean drip pans and containers. <input type="checkbox"/> Do not pour liquid waste down floor drains, sinks, or outdoor storm drain inlets.

INDUSTRIAL STORMWATER FACT SHEET SERIES

Sector N: Scrap Recycling and Waste Recycling Facilities**Table 2. BMPs for Potential Pollutant Sources at Scrap Recycling and Waste Recycling Facilities (continued)**

Activity	BMPs
Inbound recyclable and waste material control (continued)	<ul style="list-style-type: none"> <input type="checkbox"/> Plug floor drains that are connected to the storm or sanitary sewer. If necessary, install a sump that is pumped regularly. <input type="checkbox"/> Inspect the maintenance area regularly for proper implementation of control measures. <input type="checkbox"/> Filter stormwater discharges with devices such as oil/water separators. <input type="checkbox"/> Train employees on proper waste control and disposal procedures. <input type="checkbox"/> Establish and implement procedures to educate auto scrap providers of need to remove mercury switches from hood and trunk lighting units and anti-lock break system units.
Outside scrap material storage: (liquids)	<ul style="list-style-type: none"> <input type="checkbox"/> Use drip pans under all vehicles and equipment waiting for processing. <input type="checkbox"/> Store batteries on impervious surfaces. Curb, dike, or berm this area. <input type="checkbox"/> Confine storage to designated areas. <input type="checkbox"/> Cover all storage areas with a permanent (e.g., roofs) or temporary cover (e.g., canvas tarps). <input type="checkbox"/> Install diversion devices such as curbing, berms, containment trenches, culverts, or dikes around storage areas. <input type="checkbox"/> Install oil/water separators, sumps, and dry absorbents for areas where potential sources of residual fluids are stockpiled (e.g., automobile engine storage areas). <input type="checkbox"/> Inspect the storage yard for filled drip pans and other problems regularly. <input type="checkbox"/> Train employees on procedures for storage and inspection items.
Scrap material storage: (bulk solid materials)	<ul style="list-style-type: none"> <input type="checkbox"/> Minimize runoff from coming into areas where significant materials are stored (e.g., diversion structures such as curbing, berms, containment trenches, surface grading, and elevated concrete pads) or other equivalent measure. <input type="checkbox"/> Use adsorbents or collect leaks or spills of oil, fuel, transmission, and brake fluids (e.g., dry absorbent, drip pans). <input type="checkbox"/> Locate spill pans under stored vehicles. <input type="checkbox"/> Install media filters such as catch basin and sand filters. <input type="checkbox"/> Install oil/water separator in storage areas with vehicle transmissions and engines. <input type="checkbox"/> Provide nonrecyclable waste storage bins and containers. <input type="checkbox"/> Conduct periodic inspections. Conduct preventative maintenance as necessary. <input type="checkbox"/> Provide equipment operator training to minimize damage to controls (e.g., curbing and berms).
Other storage: (lightweight materials)	<ul style="list-style-type: none"> <input type="checkbox"/> Maintain good integrity of all storage containers. <input type="checkbox"/> Install safeguards (such as diking or berming) against accidental releases. <input type="checkbox"/> Inspect storage tanks to detect potential leaks and perform preventive maintenance. <input type="checkbox"/> Inspect piping systems (pipes, pumps, flanges, couplings, hoses, and valves) for failures or leaks. <input type="checkbox"/> Train employees on proper filling and transfer procedures.
Scrap processing operations	<ul style="list-style-type: none"> <input type="checkbox"/> Provide containment bins or equivalent for shredded material, especially lightweight materials such as fluff (preferably at the discharge of these materials from the air classification system). <input type="checkbox"/> Provide cover over hydraulic equipment and combustion engines. Provide dry-cleanup materials (e.g., dry-adsorbents, drip pans, etc.) to prevent contact of hydraulic fluids, oils, fuels, etc., with stormwater runoff.

INDUSTRIAL STORMWATER FACT SHEET SERIES

Sector N: Scrap Recycling and Waste Recycling Facilities**Table 2. BMPs for Potential Pollutant Sources at Scrap Recycling and Waste Recycling Facilities (continued)**

Activity	BMPs
Scrap processing operations (continued)	<ul style="list-style-type: none"> <input type="checkbox"/> Site process equipment on elevated concrete pads or provide runoff diversion structures around process equipment, berms, containment trenches surface grading, or other equivalent measure. Discharge runoff from within bermed areas to a sump, oil/water separator, media filter, or discharge to sanitary sewer. <input type="checkbox"/> Stabilize high traffic areas (e.g., concrete pads, gravel, and pavement around processing equipment) where practicable. <input type="checkbox"/> Provide alarm, pump shutoff, or sufficient containment for hydraulic reservoirs in the event of a line break. <input type="checkbox"/> Provide site gages or overfill protection devices for all liquid and fuel storage reservoirs and tanks. <input type="checkbox"/> Schedule frequent cleaning of accumulated fluids and particulate residue around all scrap processing equipment. <input type="checkbox"/> Schedule frequent inspections of equipment for spills or leakage of fluids, oil, fuel, and/or hydraulic fluids due to malfunctioning, worn, or corroded parts or equipment. <input type="checkbox"/> Conduct routine preventive maintenance of equipment per original manufacturer's equipment (OME) recommendations. Replace worn or malfunctioning parts. <input type="checkbox"/> Conduct periodic maintenance and clean out of all sumps, oil/water separators, and/or media filters. Dispose of residual waste materials properly (e.g., according to RCRA). <input type="checkbox"/> Install retention/detention ponds or basins, sediment traps, vegetated swales or strips for pollutant settling/filtration. <input type="checkbox"/> Establish spill prevention and response procedures, including employee training. <input type="checkbox"/> Provide training to equipment operators on how to minimize exposure of runoff to scrap processing areas.
Scrap lead acid battery program	<ul style="list-style-type: none"> <input type="checkbox"/> Store batteries indoors on an impervious surface. Raise batteries off the floor with pallets or store in covered, leak-proof containers. <input type="checkbox"/> Separate all scrap batteries from other scrap materials. <input type="checkbox"/> Establish procedures for the collection, storage, handling, and disposition of cracked or broken batteries in accordance with applicable Federal regulations (e.g., RCRA). <input type="checkbox"/> Establish special handling procedures for cracked or broken batteries. Neutralize acid leaks with sodium carbonate, soda ash, or other absorbent materials. <input type="checkbox"/> Establish inspection and acceptance procedures for scrap lead-acid batteries. Provide supplier training on acceptance practices for scrap batteries. <input type="checkbox"/> Provide employee training on the safe handling, storage, and disposition of scrap batteries.
Supplies for Process Equipment	<ul style="list-style-type: none"> <input type="checkbox"/> Locate storage drums containing liquids, including oils and lubricants indoors. Alternatively, site palletized drums and containers on an impervious surface and provide sufficient containment around the materials. Provide sumps and/or oil/water separators, if necessary. <input type="checkbox"/> Conduct periodic inspections of containment areas and containers/drums for corrosion. <input type="checkbox"/> Perform preventive maintenance of BMPs, as necessary. <input type="checkbox"/> Instruct employees on proper material handling and storage procedures.
Vehicle and equipment maintenance	<p>Good Housekeeping</p> <ul style="list-style-type: none"> <input type="checkbox"/> Plug floor drains that are connected to the storm or sanitary sewer; if necessary, install a sump that is pumped regularly. <input type="checkbox"/> Maintain an organized inventory of materials used in the maintenance shop.

INDUSTRIAL STORMWATER FACT SHEET SERIES

Sector N: Scrap Recycling and Waste Recycling Facilities**Table 2. BMPs for Potential Pollutant Sources at Scrap Recycling and Waste Recycling Facilities (continued)**

Activity	BMPs
Vehicle and equipment maintenance (continued)	<p data-bbox="483 365 821 394">Good Housekeeping (continued)</p> <ul style="list-style-type: none"> <li data-bbox="488 411 1390 470"><input type="checkbox"/> Use drip plans, drain boards, and drying racks to direct drips back into a sink or fluid holding tank for re-use. <li data-bbox="488 487 1333 516"><input type="checkbox"/> Drain all parts of fluids prior to disposal. Oil filters can be crushed and recycled. <li data-bbox="488 533 1435 592"><input type="checkbox"/> Promptly transfer used fluids to the proper container; do not leave full drip pans or other open containers around the shop. Empty and clean drip pans and containers. <li data-bbox="488 609 1382 667"><input type="checkbox"/> Dispose of greasy rags, oil filters, air filters, batteries, spent coolant, and degreasers properly. <li data-bbox="488 684 1419 714"><input type="checkbox"/> Label and track the recycling of waste material (e.g., used oil, spent solvents, batteries). <li data-bbox="488 730 992 760"><input type="checkbox"/> Maintain an organized inventory of materials. <li data-bbox="488 777 1349 835"><input type="checkbox"/> Eliminate or reduce the number or amount of hazardous materials and waste by substituting nonhazardous or less hazardous materials. <li data-bbox="488 852 1305 882"><input type="checkbox"/> Clean up leaks, drips, and other spills without using large amounts of water. <li data-bbox="488 898 1382 957"><input type="checkbox"/> Prohibit the practice of hosing down an area where the practice would result in the exposure of pollutants to stormwater. <li data-bbox="488 974 1084 1003"><input type="checkbox"/> Clean without using liquid cleaners whenever possible. <li data-bbox="488 1020 1247 1050"><input type="checkbox"/> Do all cleaning at a centralized station so the solvents stay in one area. <li data-bbox="488 1066 1170 1096"><input type="checkbox"/> If parts are dipped in liquid, remove them slowly to avoid spills. <li data-bbox="488 1113 1382 1171"><input type="checkbox"/> Do not pour liquid waste down floor drains, sinks, outdoor storm drain inlets, other storm drains, or sewer connections. <p data-bbox="483 1188 699 1218">Minimizing Exposure</p> <ul style="list-style-type: none"> <li data-bbox="488 1234 1435 1318"><input type="checkbox"/> Perform all cleaning operations indoors or under covering when possible. Conduct the cleaning operations in an area with a concrete floor with no floor drainage other than to sanitary sewers or treatment facilities. <li data-bbox="488 1335 1365 1394"><input type="checkbox"/> If operations are uncovered, perform them on concrete pad that is impervious and contained. <li data-bbox="488 1411 1403 1470"><input type="checkbox"/> Park vehicles and equipment indoors or under a roof whenever possible where proper control of oil leaks/spills is maintained and exposure to stormwater is prevented. <li data-bbox="488 1486 1328 1516"><input type="checkbox"/> Watch vehicles closely for leaks and use pans to collect fluid when leaks occur. <p data-bbox="483 1533 727 1562">Management of Runoff</p> <ul style="list-style-type: none"> <li data-bbox="488 1579 1430 1638"><input type="checkbox"/> Use berms, curbs, or similar means to ensure that stormwater runoff from other parts of the facility does not flow over the maintenance area. <li data-bbox="488 1654 1414 1759"><input type="checkbox"/> Collect the stormwater runoff from the cleaning area and providing treatment or recycling. Discharge vehicle wash or rinse water to the sanitary sewer (if allowed by sewer authority), wastewater treatment, a land application site, or recycled on-site. DO NOT discharge washwater to a storm drain or surface water. <p data-bbox="483 1776 732 1806">Inspections and Training</p> <ul style="list-style-type: none"> <li data-bbox="488 1822 1414 1852"><input type="checkbox"/> Inspect the maintenance area regularly for proper implementation of control measures. <li data-bbox="488 1869 1198 1898"><input type="checkbox"/> Train employees on proper waste control and disposal procedures.

INDUSTRIAL STORMWATER FACT SHEET SERIES

Sector N: Scrap Recycling and Waste Recycling Facilities**Table 2. BMPs for Potential Pollutant Sources at Scrap Recycling and Waste Recycling Facilities (continued)**

Activity	BMPs
Vehicle fueling	<ul style="list-style-type: none"> <input type="checkbox"/> Conduct fueling operations (including the transfer of fuel from tank trucks) on an impervious or contained pad or under a roof or canopy where possible. Covering should extend beyond spill containment pad to prevent rain from entering. <input type="checkbox"/> When fueling in uncovered area, use a concrete pad (not asphalt which is not chemically resistant to the fuels being handled). <input type="checkbox"/> Use drip pans where leaks or spills of fuel can occur and where making and breaking hose connections. <input type="checkbox"/> Use fueling hoses with check valves to prevent hose drainage after filling. <input type="checkbox"/> Use spill and overflow protection devices. <input type="checkbox"/> Clean up spills and leaks immediately. <input type="checkbox"/> Minimize/eliminate run-on onto fueling areas with diversion dikes, berms, curbing, surface grading or other equivalent measures. <input type="checkbox"/> Collect stormwater runoff and provide treatment or recycling. <input type="checkbox"/> Use dry cleanup methods for fuel area rather than hosing the fuel area down. <input type="checkbox"/> Perform preventive maintenance on storage tanks to detect potential leaks before they occur. <input type="checkbox"/> Inspect the fueling area to detect problems before they occur. <input type="checkbox"/> Train personnel on proper fueling procedures. <input type="checkbox"/> Provide curbing or posts around fuel pumps to prevent collisions during vehicle ingress and egress. <input type="checkbox"/> Discourage "topping off" of fuel tanks.
Outdoor vehicle parking and storage	<ul style="list-style-type: none"> <input type="checkbox"/> Cover vehicle and equipment storage areas. <input type="checkbox"/> Use drip pans under all equipment and vehicles waiting maintenance. <input type="checkbox"/> Conduct inspections of storage and parking areas for leaks and filled drip pans. <input type="checkbox"/> Provide employee training.
Vehicle and equipment washing	<ul style="list-style-type: none"> <input type="checkbox"/> Designate an area for cleaning activities. <input type="checkbox"/> Use detergent or water-based cleaning systems in place of organic solvent degreasers. <input type="checkbox"/> Use phosphate-free biodegradable detergents. <input type="checkbox"/> Avoid washing parts or equipment outside. <input type="checkbox"/> Use auto shutoff valves on washing equipment. <input type="checkbox"/> Provide vehicle wash rack with dedicated sediment trap and oil/water separator. <input type="checkbox"/> Install curbing, berms, or dikes around cleaning areas. <input type="checkbox"/> Inspect cleaning area regularly. <input type="checkbox"/> Train employees on proper washing procedures. <input type="checkbox"/> Contain steam cleaning washwaters. Discharge to sanitary sewer in compliance with POTW pre-treatment standards, dispose via licensed waste hauler, or discharge under an applicable NPDES permit.

INDUSTRIAL STORMWATER FACT SHEET SERIES

Sector N: Scrap Recycling and Waste Recycling Facilities**Table 2. BMPs for Potential Pollutant Sources at Scrap Recycling and Waste Recycling Facilities (continued)**

Activity	BMPs
Vehicle and equipment painting (where applicable)	<input type="checkbox"/> Conduct sanding and painting in nonexposed areas (e.g., under cover) in accordance with OSHA standards. <input type="checkbox"/> Minimize overspraying. <input type="checkbox"/> Clean up accumulated particulate matter. <input type="checkbox"/> Dispose or recycle paint, solvents, and thinner properly. <input type="checkbox"/> Keep paint and solvents away from traffic areas. <input type="checkbox"/> Conduct periodic inspections of paint spraying areas. <input type="checkbox"/> Provide training on control procedures for employees.
Erosion and sediment control	<input type="checkbox"/> Minimize run-on from adjacent properties using diversion dikes, berms, or equivalent. <input type="checkbox"/> Trap sediment at down gradient locations and outlets serving unstabilized areas. This may include filter fabric fences, gravel outlet protection, sediment traps, vegetated or riprap swales, vegetated strips, diversion structures, catch-basin filters, and retention/detention basins or equivalent. <input type="checkbox"/> Stabilize all high traffic areas, including all vehicle entrances and exit points. Conduct periodic sweeping of all traffic areas. Conduct inspections of BMPs. <input type="checkbox"/> Perform preventative maintenance as needed on BMPs. <input type="checkbox"/> Provide employee training on the proper installation and maintenance of erosion and sediment controls.
Waste Recycling Facilities (liquid recyclable materials)	
Individual drum/container storage	<input type="checkbox"/> Ensure container/drums are in good condition. Store waste materials in materially compatible drums. Use containers that meet National Fire Protection Association (NFPA) guidelines. <input type="checkbox"/> Put individual containers on pallets. Limit stack height of individual containers/drums. Provide straps, plastic wrap, or equivalent around stacked containers to provided stability. <input type="checkbox"/> Label/mark drums. Segregate hazardous and flammable wastes. Comply with NFPA guidelines for segregation of flammable wastes. <input type="checkbox"/> Provide adequate clearance to allow material movement and access by material handling equipment. <input type="checkbox"/> Provide semipermanent or permanent cover over wastes. <input type="checkbox"/> Establish clean up procedures, including the use of dry adsorbents, in the event of spills or leaks. Prohibit washing down of material storage areas. Disconnect or seal all floor drains from storm sewer system. <input type="checkbox"/> Provide secondary containment, dikes, berms, containment trench, sumps, or other equivalent measure, in all storage areas. Provide proper sizing of containment with sufficient capacity for precipitation. <input type="checkbox"/> Develop SPCC procedures for all liquid container storage areas. Ensure employees are familiar with SPCC procedures. Schedule/conduct periodic employee training.
Bulk liquid storage	<input type="checkbox"/> Use welded pipe connections versus flange connections. Inspect all flange gaskets for deterioration. <input type="checkbox"/> Apply corrosion inhibitors to exposed metal surfaces. <input type="checkbox"/> Provide high level alarms for storage tanks. <input type="checkbox"/> Provide redundant piping, valves, pumps, motors, as necessary, at all pumping stations. Provide manually activated shutoff valves in the event of spill. Install visible and/or audible alarms in the event of a spill.

INDUSTRIAL STORMWATER FACT SHEET SERIES

Sector N: Scrap Recycling and Waste Recycling Facilities**Table 2. BMPs for Potential Pollutant Sources at Scrap Recycling and Waste Recycling Facilities (continued)**

Activity	BMPs
Bulk liquid storage (continued)	<input type="checkbox"/> Install manually activated drainage valves, or equivalent, versus flapper-type drain valves. <input type="checkbox"/> Provide adequate security against vandalism and tampering. <input type="checkbox"/> Provide secondary containment around all bulk storage tanks, including berms, dikes, surface impoundments, and/or equivalent. Ensure surfaces of secondary containment areas are adequately sealed to prevent leaks. <input type="checkbox"/> Provide stationary boxes around all return and fill stations to eliminate/minimize hose drainage and minor waste transfer spills.
Waste transfer areas	<input type="checkbox"/> Provide cover over liquid waste transfer areas. <input type="checkbox"/> Provide secondary containment or equivalent measures around all liquid waste transfer facilities. <input type="checkbox"/> Establish cleanup procedures for minor spills including the use of dry absorbents or a wet vacuum system. <input type="checkbox"/> Train employees on proper transfer procedures and spill response.
Vehicle and equipment maintenance (if applicable)	<i>See BMPs under Scrap and Waste Recycling Facilities above</i>
Vehicle and equipment washing (if applicable)	<input type="checkbox"/> Avoid washing parts or equipment outside. <input type="checkbox"/> Use phosphate-free biodegradable detergents. <input type="checkbox"/> Provide vehicle wash rack with dedicated sediment trap and oil/water separator. <input type="checkbox"/> Use auto shut-off valves on washing equipment. <input type="checkbox"/> Use detergent or water-based cleaning systems in place of organic solvent degreasers. <input type="checkbox"/> Designate an area for cleaning activities. <input type="checkbox"/> Contain steam cleaning washwaters or discharge under an applicable NPDES permit. <input type="checkbox"/> Ensure that washwaters drain well. <input type="checkbox"/> Inspect cleaning area regularly. <input type="checkbox"/> Install curbing, berms, or dikes around cleaning areas. <input type="checkbox"/> Train employees on proper washing procedures.
Recycling Facilities	
Inbound recyclable materials control	<input type="checkbox"/> Provide public education brochures to inform suppliers of recyclable materials which are acceptable and which are not. <input type="checkbox"/> Educate curbside pick-up drivers on acceptable materials. Reject unacceptable materials at the source. <input type="checkbox"/> Clearly marking public drop-off containers regarding which materials can be accepted. <input type="checkbox"/> Develop procedures for handling and disposal of non-recyclable material. <input type="checkbox"/> Implement employee training. <input type="checkbox"/> Provide totally-enclosed drop-off containers for public.
Storage	<input type="checkbox"/> Conduct processing operations indoors. Clean up residual fluids. <input type="checkbox"/> Schedule routine preventive maintenance on all processing equipment. <input type="checkbox"/> Store equivalent of the average daily volume of recyclable materials indoors. <input type="checkbox"/> Direct tipping floor washwaters to sanitary sewer system if permitted by local sanitary authority.

INDUSTRIAL STORMWATER FACT SHEET SERIES

Sector N: Scrap Recycling and Waste Recycling Facilities**Table 2. BMPs for Potential Pollutant Sources at Scrap Recycling and Waste Recycling Facilities (continued)**

Activity	BMPs
Storage (continued)	<input type="checkbox"/> Provide good housekeeping. <input type="checkbox"/> Disconnect all floor drains from storm sewer system. <input type="checkbox"/> Prohibit illicit discharges and illegal dumping to floor drains that are connected to the storm sewer.
Outdoor material storage	<input type="checkbox"/> Provide totally enclosed drop-off containers for the public. <input type="checkbox"/> Store only processed materials (i.e., baled plastic, aluminum, and glass cullet). <input type="checkbox"/> Provide covers over containment bins, dumpsters, and roll-off boxes. <input type="checkbox"/> Use tarpaulins or covers over bales of wastepaper. <input type="checkbox"/> Provide dikes and curbs around bales of recyclable wastepaper. <input type="checkbox"/> Divert surface water runoff away from outside material storage areas. <input type="checkbox"/> Conduct regularly scheduled sweeping of storage areas to minimize particulate buildup. <input type="checkbox"/> Provide containment pits with sumps pumps that discharge to sanitary sewer system. Prevent discharge of residual fluids to storm sewer.
Residual non-recyclable materials	<input type="checkbox"/> Store residual non-recyclable materials in covered containers for transport to a proper disposal facility. <input type="checkbox"/> Bale residual non-recyclable materials and cover with tarpaulin or equivalent.
Vehicle fueling	<input type="checkbox"/> Conduct fueling operations (including the transfer of gas/diesel fuel from tank trucks) on an impervious, contained pad, or under a roof or canopy where possible. Covering should extend beyond spill containment pad to prevent rain from entering. <input type="checkbox"/> When fueling in uncovered area, use concrete pad (not asphalt which is not chemically resistant to the fuels being handled). <input type="checkbox"/> Use drip pans where leaks or spills of gas/diesel fuel can occur and where making and breaking hose connections. <input type="checkbox"/> Use fueling hoses with check valves to prevent hose drainage after filling. <input type="checkbox"/> Clean up spills and leaks immediately. <input type="checkbox"/> Minimize/eliminate run-on onto fueling areas with diversion dikes, berms, curbing, surface grading or other equivalent measures. <input type="checkbox"/> Collect stormwater runoff and provide treatment or recycling. <input type="checkbox"/> Use dry cleanup methods for fuel area rather than hosing the fuel area down. <input type="checkbox"/> Perform preventive maintenance on storage tanks to detect potential leaks before they occur. <input type="checkbox"/> Inspect the fueling area to detect problems before they occur. <input type="checkbox"/> Train personnel on proper fueling procedures. <input type="checkbox"/> Provide curbing or posts around fuel pumps to prevent collisions during vehicle ingress and egress. <input type="checkbox"/> Discourage "topping off" of gas/diesel fuel tanks.
Illicit connection to storm sewer	<input type="checkbox"/> Plug all floor drains if it is unknown whether the connection is to storm sewer or sanitary sewer systems. Alternatively, install a sump that is pumped regularly. <input type="checkbox"/> Perform dye testing to determine if interconnections exist between sanitary water system and storm sewer system. <input type="checkbox"/> Update facility schematics to accurately reflect all plumbing connections.

INDUSTRIAL STORMWATER FACT SHEET SERIES

Sector N: Scrap Recycling and Waste Recycling Facilities**Table 2. BMPs for Potential Pollutant Sources at Scrap Recycling and Waste Recycling Facilities (continued)**

Activity	BMPs
Illicit connection to storm sewer (continued)	<ul style="list-style-type: none"> <input type="checkbox"/> Install a safeguard against vehicle washwaters and parts cleaning waters entering the storm sewer unless permitted. <input type="checkbox"/> Maintain and inspect the integrity of all underground storage tanks, replace when necessary. <input type="checkbox"/> Train employees on proper disposal practices for all materials.
Equipment/vehicle maintenance	<p>Good Housekeeping</p> <ul style="list-style-type: none"> <input type="checkbox"/> Plug floor drains that are connected to the storm or sanitary sewer; if necessary, install a sump that is pumped regularly. <input type="checkbox"/> Use drip pans, drain boards, and drying racks to direct drips back into a sink or fluid holding tank for re-use. <input type="checkbox"/> Drain all parts of fluids prior to disposal. Oil filters can be crushed and recycled. <input type="checkbox"/> Promptly transfer used fluids to the proper container; do not leave full drip pans or other open containers around the shop. Empty and clean drip pans and containers. <input type="checkbox"/> Dispose of greasy rags, oil filters, air filters, batteries, spent coolant, and degreasers properly. <input type="checkbox"/> Label and track the recycling of waste material (e.g., used oil, spent solvents, batteries). <input type="checkbox"/> Maintain an organized inventory of materials. <input type="checkbox"/> Eliminate or reduce the number and amount of hazardous materials and waste by substituting nonhazardous or less hazardous materials. <input type="checkbox"/> Clean up leaks, drips, and other spills without using large amounts of water. Use absorbents for dry cleanup whenever possible. <input type="checkbox"/> Prohibit the practice of hosing down an area where the practice would result in the discharge of pollutants to the stormwater collection system. <input type="checkbox"/> Clean without using liquid cleaners whenever possible. <input type="checkbox"/> Do all cleaning at a centralized station so the solvents stay in one area. <input type="checkbox"/> If parts are dipped in liquid, remove them slowly to avoid spills. <input type="checkbox"/> Do not pour liquid waste into floor drains, sinks, outdoor storm drain inlets, other storm drains, or sewer connections. <p>Minimizing Exposure</p> <ul style="list-style-type: none"> <input type="checkbox"/> Perform all cleaning operations indoors or under covering when possible. Conduct the cleaning operations in an area with a concrete floor with no floor drainage other than to sanitary sewers or treatment facilities. <input type="checkbox"/> If operations are uncovered, perform them on concrete pad that is impervious and contained. <input type="checkbox"/> Park vehicles and equipment indoors or under a roof whenever possible and maintain proper control of oil leaks/spills. <input type="checkbox"/> Check vehicles closely for leaks and use pans to collect fluid when leaks occur. <p>Management of Runoff</p> <ul style="list-style-type: none"> <input type="checkbox"/> Use berms, curbs, or similar means to ensure that stormwater runoff from other parts of the facility does not flow over the maintenance area. <input type="checkbox"/> Collect the stormwater runoff from the cleaning area and provide treatment or recycling. Discharge vehicle wash or rinse water to the sanitary sewer (if allowed by sewer authority), wastewater treatment, a land application site, or recycle on-site. DO NOT discharge washwater to a storm drain or surface water.

INDUSTRIAL STORMWATER FACT SHEET SERIES

Sector N: Scrap Recycling and Waste Recycling Facilities**Table 2. BMPs for Potential Pollutant Sources at Scrap Recycling and Waste Recycling Facilities (continued)**

Activity	BMPs
Equipment/vehicle maintenance (continued)	Inspections and Training <input type="checkbox"/> Inspect the maintenance area regularly for proper implementation of control measures. <input type="checkbox"/> Train employees on proper waste control and disposal procedures.
Outdoor Vehicle and Equipment Storage	<input type="checkbox"/> Inspect area for leaking engines, chipping/corroding bumpers, chipping paint, galvanized metal

What if activities and materials at my facility are not exposed to precipitation?

The industrial stormwater program requires permit coverage for a number of specified types of industrial activities. However, when a facility is able to prevent the exposure of ALL relevant activities and materials to precipitation, it may be eligible to claim no exposure and qualify for a waiver from permit coverage.

If you are regulated under the industrial permitting program, you must either obtain permit coverage or submit a no exposure certification form, if available. Check with your permitting authority for additional information as not every permitting authority program provides no exposure exemptions.

Where do I get more information?

For additional information on the industrial stormwater program see www.epa.gov/npdes/stormwater/msgp.

A list of names and telephone numbers for each EPA Region or state NPDES permitting authority can be found at www.epa.gov/npdes/stormwatercontacts.

References

Information contained in this Fact Sheet was compiled from EPA's past and current Multi-Sector General Permits and from the following sources:

- ◆ King County, Natural Resources and Parks, Water and Land Resources Division. 2004. King County Stormwater Pollution Prevention Manual.
<http://dnr.metrokc.gov/wlr/dss/sppm.htm>
- ◆ U.S. EPA, Office of Science and Technology. 1999. Preliminary Data Summary of Urban Stormwater Best Management Practices. EPA-821-R-99-012.
www.epa.gov/OST/stormwater/
- ◆ U.S. EPA, Office of Wastewater Management. *NPDES Stormwater Multi-Sector General Permit for Industrial Activities (MSGP)*.
www.epa.gov/npdes/stormwater/msgp
- ◆ U.S. EPA. The National Vehicle Mercury Switch Recovery Program.
www.epa.gov/mercury/switch.htm
- ◆ Wisconsin Department of Natural Resources. "General Permit to Discharge under the Wisconsin Pollutant Discharge Elimination System, Recycling of Scrap and Waste Material." <http://dnr.wi.gov/org/caer/cea/assistance/scrap/stormwater/scrap/permit.pdf>